

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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TERESA HIPPLE, : CIVIL NO. 12-01256
formerly known as :
TERESA CONCEPCION, :
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Plaintiff, :
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v :
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SCIX, LLC, et al, :
:
: Philadelphia, Pennsylvania
: July 29, 2015
Defendants. : 8:50 a.m.

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TRANSCRIPT OF TRIAL - DAY THREE
BEFORE THE HONORABLE THOMAS J. RUETER
UNITED STATES MAGISTRATE JUDGE

- - -

APPEARANCES:

For the Plaintiff: GERALD S. BERKOWITZ, ESQUIRE
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For the Defendant
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et al: CLEMENT HIPPLE
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3 MR. SULLIVAN: Good morning, Your Honor.

4 MR. BERKOWITZ: Good morning, Your Honor.

5 MR. HIPPLE: Good morning, Your Honor.

6 THE COURT: Okay. I understand Mr. Sullivan
7 from the law firm of Hill Wallack is here and wants to
8 address this issue of the subpoena.

9 MR. SULLIVAN: Good morning, Your Honor.

10 THE COURT: Mr. Sullivan.

11 MR. SULLIVAN: For the record, Francis J.
12 Sullivan. I am an attorney and I am a member of the law
13 firm of Hill Wallack and I'm here on behalf of Michael
14 J. Shavel who is also a member of the law firm of Hill
15 Wallack.

16 Mr. Shavel was served with a subpoena to
17 appear this morning in connection with the matter before
18 the Court --

19 THE COURT: Right.

20 MR. SULLIVAN: -- seeking to have him testify
21 with regard to collateral litigation that is not I
22 believe the subject matter of this particular case.

With respect to that collateral litigation, we have filed with respect to the subpoena that has been served upon Mr. Shavel, we had filed a motion to

1 quash --

2 THE COURT: Right.

3 MR. SULLIVAN: -- which I understand in
4 pretrial proceedings Your Honor had indicated that you
5 were not going to rule upon it but we -- you held it in
6 reserve.

7 THE COURT: Yes. Actually, Judge DuBois
8 denied it without prejudice.

9 MR. SULLIVAN: Without prejudice.

10 THE COURT: Right. And Ms. Bowman of your
11 firm also reargued it and I again deferred ruling until
12 I -- I had a little bit more testimony, but, go ahead,
13 Mr. Sullivan --

14 MR. SULLIVAN: Yes.

15 THE COURT: -- but, yes, it is -- it is an
16 open question.

17 MR. SULLIVAN: The issue that is presented
18 before the Court is Mr. Shavel acted as an attorney for
19 Mr. Hipple and that with regard to anything that Mr.
20 Shavel could testify to, it is either covered by the
21 privilege, the attorney/client privilege or it is
22 protected by the work product doctrine.

23 In reviewing the memorandum of law filed in
24 opposition to our motion to quash the subpoena by the
25 plaintiff, Teresa Hipple, and counsel, there are three

1 areas that counsel claims that he wants to speak to Mr.
2 Shavel or examine him with respect to his position as a
3 fact witness, and he claims in his response to our
4 motion to quash that he will not be asked any questions
5 which would cause the invocation of the attorney/client
6 privilege.

7 However, if you take a look at the allegations
8 of -- or the basis upon which Mr. Berkowitz seeks to
9 call Mr. Shavel with regard to the three items
10 identified in his papers, it is clear that with respect
11 to the first one, the issue is Mr. Shavel took a
12 verification on a petition to intervene in an action
13 that was present before -- that was presented to the
14 Court in Bucks County.

15 In that case, Teresa Hipple had filed a
16 petition for the appointment of a receiver, and the
17 owner of the company at the time, which is SCIX was a
18 Brian Hipple who is a son of Mr. Hipple who is deceased.

19 THE COURT: Correct.

20 MR. SULLIVAN: And in the papers filed in
21 opposition to that petition to -- petition for the
22 appointment of a receiver, there are all allegations
23 that all of these assets are owned by another company
24 that Mr. Hipple had, Mr. Clem Hipple had, called
25 Complete Group. That was the answer by Brian Hipple on

1 behalf of SCIX saying these assets are owned by somebody
2 else, another creditor.

3 And, in fact, what you have before the Court
4 at that time was a fight between two competing creditors
5 to get the assets that allegedly were owned by SCIX or
6 owned by somebody else. The verification by Mr. Shavel
7 is as to certain legal conclusions with regard to the
8 ownership of the assets as well as the issue as to what
9 -- how the assets were or were not conveyed.

10 Mr. Hipple is present before the Court. Mr.
11 Hipple, my understanding is, is to testify as of cross-
12 examination by Mr. Berkowitz. Mr. Hipple can be shown
13 that document and he can be asked each and every
14 question with respect to the allegations set forth in
15 that petition --

16 THE COURT: Right.

17 MR. SULLIVAN: -- to intervene which, by the
18 way, was never acted upon by the Court of Common Pleas
19 of Bucks County. He's the one who can testify as to the
20 facts --

21 THE COURT: Right.

22 MR. SULLIVAN: -- because he is the moving
23 party, not Mr. Shavel. Mr. Shavel is strictly an
24 attorney. Not only that, but with regard to the
petition to intervene, the issue was the appointment of

1 a receiver, and the asset, if you will, that was at
2 issue and why they wanted a receiver was with regard to
3 patents.

4 And in the petition itself to intervene at
5 paragraph 27, it is clearly stated that the patents have
6 not been transferred by SCIX to Complete Group. And
7 that was the whole focus of that action in Bucks County
8 was to have a receiver appointed so that they could get
9 the patents and then force SCIX to get them transferred
10 to -- transferred to the receiver so the receiver could
11 sell -- so this is a fight between two creditors.

12 Mr. Hipple can't -- I'm sorry -- Mr. Shavel
13 certainly can't testify as to any of that, and anything
14 that he did with regard to that petition to intervene
15 clearly is testimony that can be obtained from Mr.
16 Hipple. And, therefore, there's nothing that Mr. Shavel
17 can testify to unless he violates the attorney/client
18 privilege or the work product doctrine is found not to
19 be applicable.

20 The arguments with regard to the subpoena are
21 circulative on Mr. Berkowitz. He claims that this
22 petition or the verification of this petition is the
23 reason why, in his second argument against the quashing,
24 that the -- the verification as to certain legal
25 conclusions in the petition to intervene, that the words

1 that were used were that Complete Group "owned" assets.

2 What happens is that, in the second part of
3 his argument, is that the -- there was a litigation
4 instituted by a company -- by Complete Group, separate
5 entity, nothing to do with SCIX, and that there was
6 litigation instituted against a company called -- and
7 I'll have to say this slowly -- Steel Seal Pro, LLC, a
8 Delaware limited liability company.

9 The allegation is that if the verification in
10 the petition to intervene said -- was that there was the
11 patents at issue were allegedly "owned," then how could,
12 according to the theory of Mr. Berkowitz, how could
13 there be a lawsuit filed by Complete Group, Inc.,
14 against Steel Seal Pro, LLC?

15 At issue in the Steel Seal Pro, LLC, matter is
16 that Steel Seal Pro, LLC, had a bank account with money
17 in it. Mr. Hipple is the owner of Complete Group, had a
18 lawsuit against Steel Seal Pro because, as I understand
19 it, he believes that that money belongs to -- from Steel
20 Seal Pro was owed to Complete Group, totally different
21 entities.

22 A complaint was filed, and this is all a
23 matter of record. The complaint was served. The time
24 passed for the entry of an answer. A default judgment
25 was taken, and a -- the praecipe was filed and the bank

1 account was garnished. That's all a matter of record.

2 THE COURT: Right.

3 MR. SULLIVAN: Mr. Berkowitz is saying, well,
4 we want to inquire of Mr. Shavel as a fact witness why
5 it is a praecipe was filed in a dollar amount and the
6 garnishment was issued. Well, if he's arguing that
7 there was something improper with respect to that,
8 that's a legal argument. That is not an issue with
9 relationship -- with respect to Mr. Shavel's mindset
10 work product. It has nothing to do with the SCIX
11 litigation.

12 The connection of the two is made by Mr.
13 Berkowitz as a matter of his papers, but it is a
14 factually incorrect connection because the litigation in
15 the second instance was by Complete Group against Steel
16 Seal Pro, LLC. So those two aren't connected.

17 As to the issue of -- and I think Mr.
18 Berkowitz says that --

19 THE COURT: Is this the second issue?

20 MR. SULLIVAN: The second issue.

21 THE COURT: Right.

22 MR. SULLIVAN: -- that there was an abuse of
23 the Pennsylvania Rules of Civil Procedure because --

24 THE COURT: The amount was greater than --

25 MR. SULLIVAN: -- the amount was a certain

1 dollar amount which happened to be what was in that
2 account, but Mr. Hipple can testify as to that, not --
3 not Mr. Shavel.

4 THE COURT: Right.

5 MR. SULLIVAN: And if there was --

6 THE COURT: A violation --

7 MR. SULLIVAN: -- a violation --

8 THE COURT: -- I can look at the Rule.

9 MR. SULLIVAN: -- that's for the Court to
10 decide --

11 THE COURT: Right.

12 MR. SULLIVAN: -- as a matter of law and maybe
13 for the Court to decide or maybe Mr. Hipple should not
14 have gotten all of it, but it's clear in those pleadings
15 as Mr. Berkowitz says in his papers that the lawsuit was
16 for \$161,000 plus interest and legal fees. So --

17 THE COURT: I think the judgment was an amount
18 greater and it said judgment plus legal --

19 MR. SULLIVAN: It was 198,000 and change.

20 THE COURT: -- plus interest and attorney
21 fees.

22 MR. SULLIVAN: Right.

23 THE COURT: And I don't think that was
24 inclusive of that amount --

25 MR. SULLIVAN: Right.

1 THE COURT: -- if I recall the testimony.

2 MR. SULLIVAN: That's right. So -- so it's --

3 THE COURT: Yes. But I can look at the Rule.

4 I understand your argument.

5 MR. SULLIVAN: And so Your Honor can decide
6 whether or not maybe that judgment should not have been
7 in that amount, but it's clear it should have been
8 \$161,000 plus interest.

9 THE COURT: Right.

10 MR. SULLIVAN: So it's an argument as to the
11 delta, if you will, and that's a legal argument. It has
12 nothing to do with Mr. Shavel.

13 The third argument, and I just do not
14 understand this. The third argument is that there's a
15 company by the name of JCC -- I'll call it Enterprises
16 because I forget the last name. JCC had four notes, and
17 this is also an entity that Mr. -- I believe Mr. Hippel
18 owned, I'm not sure. But JCC as a separate entity years
19 ago filed -- had four notes and judgments were entered
20 on those notes, and I haven't seen the notes.

21 But it's my understanding from just reading
22 Mr. Berkowitz's papers that there's an allegation that
23 in the notes there was the right to take a judgment in
24 the event of a default. And Mr. Berkowitz claims that
25 at the time the Rules of Civil Procedure in Pennsylvania

1 existing at the time the notes -- or the judgments were
2 entered required that there be an averment in a
3 complaint in confession of judgment that there was a
4 default as a predicate in order to take the judgment.

5 He claims that there was an execution by this
6 JCC on these notes that had a default. He doesn't
7 connect any of that. He just throws it down on paper
8 and says execution but the notes required a declaration
9 or allegation of an event of default and he didn't do
10 that. Well, again, that's a legal argument. Again,
11 that's a question for the Court to decide, but -- but
12 notwithstanding all of that, Mr. Berkowitz then says in
13 his -- in his papers that JCC filed execution. These
14 notes were bad, but then he admits no execution was ever
15 had.

16 So I'm -- I'm at a loss to understand why Mr.
17 Shavel who had nothing to do with any of that is being
18 asked to testify as a fact witness to those statements.
19 So I believe, Your Honor, that, given the totality of
20 all of this, that Mr. Shavel cannot be called as a fact
21 witness. If there are any facts in issue, Mr. Hipple is
22 here to testify.

23 THE COURT: And I know this is clear, but just
24 to make sure the record's clear. Hill Wallack's client
25 at all time was Clement Hipple --

1 MR. SULLIVAN: Correct.

2 THE COURT: -- among the -- in addition to the
3 corporate entities?

4 MR. SULLIVAN: The corporate entities in -- I
5 believe in this case.

6 THE COURT: Right. And Mr. Clement Hipple
7 who's representing himself here during this trial has
8 told me yesterday, and I just want to reaffirm this
9 fact, that you're unwilling to waive any attorney/client
10 privilege. You oppose the calling of your lawyers as
11 witnesses in this case. You're not waiving any work
12 product privilege, although that really is the
13 attorney's right to assert that, is that right?

14 MR. HIPPLE: That is correct, Your Honor.

15 THE COURT: Right. Okay.

16 MR. SULLIVAN: And, Your Honor, if I may, this
17 is a matter of general argument. The attorney/client
18 privilege is the foundation of the relationship of our
19 legal system between an attorney and his client.

20 THE COURT: Right.

21 MR. SULLIVAN: This is beyond the pale. I --
22 we strenuously object to it, some -- some of the
23 specific statements being made in these papers, that
24 somehow Mr. Shavel who I've known for a long time who I
25 respect highly, has been engaging in fraud, we take

1 offense to that. We take serious offense to that, and I
2 want the Court to be aware of that.

3 THE COURT: Yes.

4 MR. SULLIVAN: Thank you very much, Your
5 Honor.

6 THE COURT: All right. Thank you, Mr.
7 Sullivan. Mr. Berkowitz.

8 MR. BERKOWITZ: Your Honor, if I could
9 approach this first in a purely legalistic way. There
10 was a motion in limine filed with Judge DuBois.

11 THE COURT: Right.

12 MR. BERKOWITZ: And the same arguments that
13 you just heard were presented in that motion in limine.
14 There was no new evidence presented here. And under the
15 law of the case doctrine, they are not allowed to re-
16 raise this issue on the same exact arguments to overturn
17 -- basically, they're asking you to overturn Judge
18 DuBois' motion in limine.

19 THE COURT: But, Mr. Berkowitz, I don't --
20 respectfully, I don't think that's correct. I don't
21 have his order in front of me, but -- wait a minute, I
22 might have it here. Right, I have it right here.

23 MR. BERKOWITZ: It's without prejudice. They
24 can re-raise arguments --

25 THE COURT: Right. So it was --

1 MR. BERKOWITZ: -- at the testimony.

2 THE COURT: -- January 26th, 2015, he denied
3 it without prejudice, the defendant's right to object at
4 trial to any questions or other evidence deemed to be
5 inadmissible by defendant. So he just deferred that
6 ruling until trial, and now I'm the Trial Judge, and
7 this is an issue for me to decide. So I -- you know,
8 this is not the law of the case.

9 MR. BERKOWITZ: What he --

10 THE COURT: So we're here today. I'm here to
11 decide it, but go ahead.

12 MR. BERKOWITZ: Understood. What he says is,
13 "in response to questions in testimony," and I'd agree.
14 When the witness is on the stand -- right at the end you
15 read that, Your Honor. The witness is going to be put
16 on the stand and you can respond to objections to
17 particular questions.

18 THE COURT: Well, I -- I disagree.

19 MR. BERKOWITZ: Okay. With respect to the
20 attorney/client privilege, I had told you before and I
21 will tell you again, I am not going to impose upon the
22 attorney/client privilege. There was --

23 THE COURT: What are you -- what are you -- if
24 he asked -- what are you going to ask Mr. Shavel?

25 MR. BERKOWITZ: You have heard testimony from

1 Mr. Hipple, and he has said -- and in his affidavit,
2 it's Exhibit 25 -- he has stated that he never executed
3 or intended to take the patents. And if you recall,
4 that was one of the reasons Judge DuBois did not enter
5 summary judgment because there was a question about what
6 assets were taken. In this litigation, Mr. Hipple and
7 his attorneys had taken the position, the patents
8 weren't taken.

9 THE COURT: Well, that's a matter of public
10 record, and that's all that's -- all those public
11 documents, whether filed in this Court or in the Court
12 of Common Pleas for Bucks County, are admissible.
13 They're public documents, and, fine, they're admissions
14 and I'll consider that, but why you need Shavel to --
15 you don't need him to authenticate it. They're already
16 authenticated.

17 MR. BERKOWITZ: First, Mr. Shavel signed the
18 verification. He says what's in the petition to
19 intervene that he filed, these statements are true and
20 correct. And they -- first of all, that information
21 must have come to Mr. Shavel through his client.
22 However, there was no intention of that information to
23 be confidential.

24 It was put in the petition, publicly filed
25 with the Court, and public information is clearly not

1 protected by the attorney/client privilege. It does not
2 apply. This is not attorney/client communication,
3 strategy and the like. This is information that was
4 conveyed to Mr. Shavel by Mr. Hipple for inclusion in a
5 petition to intervene.

6 THE COURT: But I don't understand it. He's
7 an agent for his client, Mr. Hipple. He made this
8 statement in a pleading. It's attributable to Mr.
9 Hipple because he's the agent. Now, whether it's -- you
10 know, maybe it's an inconsistent statement, and I'll
11 take it as such. But why do you need Shavel to say,
12 yeah, my client told me this and I put it down on paper?

13 MR. BERKOWITZ: There are several reasons, and
14 you'll only see when the testimony comes out, there --
15 and there are many -- many paragraphs in this petition.
16 It is not as it was just represented to you.

17 This petition -- the reason the petition was
18 filed, first of all, was because Judge Baldi had ordered
19 the patents to be sold. The petition to intervene was
20 then filed by Clement Hipple and Complete Group. They
21 come to Judge Baldi after he issues the order and they
22 say, hey, we own these patents. You can't sell them,
23 they belong to us.

24 THE COURT: Right.

25 MR. BERKOWITZ: Now, at the time the order was

1 issued by Judge Baldi, this case had begun, and Judge
2 Baldi didn't act on their petition to intervene but he
3 stayed the sale of the patents pending the outcome of
4 this litigation.

5 THE COURT: Right.

6 MR. BERKOWITZ: I have these statements that
7 Mr. Shavel verified that clearly state what the status
8 -- what Clement Hipple and Complete Group maintained was
9 the status of the patents, that they were clearly owned
10 by Clement Hipple and Complete Group. Call it an
11 inconsistent statement --

12 THE COURT: But you're -- you really are --

13 MR. BERKOWITZ: I'm not using attorney/client
14 privileged information.

15 THE COURT: Yes, you are. You're going to ask
16 Mr. Shavel what his client told him before he prepared
17 that document.

18 MR. BERKOWITZ: No, I am not.

19 THE COURT: What are you going to ask him
20 then?

21 MR. BERKOWITZ: I am going to ask him if this
22 information, number one, that he put in here is true and
23 correct. And, number two, I can ask him is this the
24 result of attorney/client communication without asking
25 him what that communication was and that he believed at

1 the time he filed this, that this was accurate. I have
2 a right to ask him those questions.

3 THE COURT: Okay.

4 MR. BERKOWITZ: And it -- again, nothing in
5 the petition is attorney/client privilege, it is not
6 confidential. It's filed of public record. That's --
7 that's with respect to the petition to intervene.

8 The second issue is the JC Consultant
9 execution. You have heard about these notes. They're
10 listed as -- they're referred to constantly as
11 judgments. Hill Wallack produced -- or Mr. Hipple -- a
12 letter showing an execution on these JC Consultant
13 notes. And as Mr. Sullivan correctly pointed out, there
14 are no judgments. They have -- Mr. Hipple has argued
15 all through the case and all through the years that
16 precede this that he had judgments against SCIX that
17 allowed him to do what he did.

18 And I am just going to demonstrate to the
19 Court that there are no judgments. That's all. No
20 attorney/client privilege. I have to --

21 THE COURT: Well, I think it's --

22 MR. BERKOWITZ: -- I have to have somebody to
23 put evidence in.

24 THE COURT: -- but there is no -- there is no
25 judgments. Is that -- it's not disputed, there is no

1 judgments.

2 MR. BERKOWITZ: It is disputed. They -- they
3 continuously say they have judgments.

4 THE COURT: Well, where -- if it's -- where
5 are they -- why can't you just --

6 MR. BERKOWITZ: I have -- if they want to
7 stipulate that I can submit unauthenticated documents
8 and the like, that's fine, but I need witnesses to put
9 my documents into evidence.

10 THE COURT: What -- what documents do you need
11 to get into evidence?

12 MR. BERKOWITZ: I have, number one, a letter
13 from Hill Wallack. I have a list of documents they
14 filed, writs of execution, interrogatories, an
15 attachment. They say they sent a check to the
16 prothonotary.

17 You look at the dockets in the prothonotary's
18 office, those things never happened. The reason those
19 things never occurred, there was no execution was
20 because there's no judgment. I am trying to establish
21 for the Court --

22 THE COURT: Well, all those documents that
23 were filed of public record will be admissible. They're
24 public documents.

25 MR. BERKOWITZ: In those --

1 THE COURT: So you don't need Mr. Shavel to
2 authenticate that. The letter from Hill Wallack, I
3 don't think Mr. Hipple's going to object to that as long
4 as he can look at it, and he's not going to dispute that
5 it's some kind of forgery.

6 MR. BERKOWITZ: I'm -- I'm going to show Mr.
7 Shavel the notes, and I'm going to ask him to, as Mr.
8 Sullivan said, look at the notes and see that in order
9 to confess judgment on a promissory note under
10 Pennsylvania law, it's still the law, it's always been
11 the law for as long as I've been practicing, to confess
12 judgment on a promissory note that requires the
13 occurrence of a default, the only way you can get a
14 judgment is to file a complaint in confession of
15 judgment.

16 THE COURT: Why don't you give me the Rule and
17 the case law? I can look at that, and I --

18 MR. BERKOWITZ: I -- I have that.

19 THE COURT: Wait a minute. I completely
20 accept your representation as to the law in
21 Pennsylvania. I'll take judicial notice and I'll agree
22 with you. I don't think we need Mr. Shavel to --

23 MR. BERKOWITZ: But --

24 THE COURT: -- to talk about the law, and,
25 respectfully, I think I can read it just as well as he

1 and you.

2 MR. BERKOWITZ: I'm -- I am -- probably --

3 THE COURT: Well, that's --

4 MR. BERKOWITZ: -- probably better.

5 THE COURT: -- you don't have to compliment
6 me, but, I mean, I don't think it's -- you know, it
7 doesn't sound like it's a matter of --

8 MR. BERKOWITZ: Your Honor, I come to trial
9 and I have evidence that I have to get in.

10 THE COURT: Right.

11 MR. BERKOWITZ: And I have promissory notes
12 and I have dockets that I need authenticated, and I have
13 things that I have to do to establish my record --

14 THE COURT: Right.

15 MR. BERKOWITZ: -- to establish our case. I
16 am trying to establish under PUFTA, Pennsylvania Uniform
17 Fraudulent Transfer Act, that we are entitled to
18 equitable relief and punitive damages. And I need to
19 satisfy the Court that what went on here was outrageous,
20 and I need to show the Court that what happened here was
21 outrageous. And I want to use Mr. Shavel for that
22 purpose, again, no attorney/client privilege. Here's an
23 outrageous thing that occurred.

24 During the pendency of this case, while this
25 case was being litigated, Brian Hippel died. We were

1 told -- I learned yesterday that it was a suicide. At
2 the time he died, Steel Seal Pro had about 150 or 60
3 thousand dollars in the bank. That money was frozen
4 there. It wasn't going anywhere.

5 Mr. Hipple, you heard yesterday, wrote a check
6 for himself, stamped with his son's stamp after his
7 death, back-dated it, for \$40,000, he took 40,000 out of
8 the account. Again, while this case is pending, money
9 continues to come into the company, Steel Seal Pro, and
10 by the time the execution occurs, there's almost
11 \$200,000 in the account plus the 40,000 that Mr. Hipple
12 had already taken.

13 That money was taken out by pure violation of
14 the Pennsylvania law, and I need a witness to deal
15 particularly with the praecipe. In the demand for
16 relief in the Complete Group complaint, he demands the
17 proceeds, that's all. That's the demand for relief, no
18 dollar amount. Judgment is entered by praecipe prepared
19 by Mr. Shavel.

20 I'm not going to ask him where he got the
21 number, although you heard Mr. Hipple testify about
22 where the number came from. It came right out of the
23 bank records of Steel Seal Pro. He filed a praecipe for
24 about \$197,000, and remember, there's nobody to complain
25 here. There's no adversary that knows about this.

1 When I found out that this occurred, I filed a
2 motion for injunctive relief to immediately get that
3 money paid back into the corp, because I didn't find out
4 till after the fact, because the depositions had been
5 pushed back methodically until the money was gone. I
6 got to depose my first witness, Melissa Moreno, a month
7 after -- about a month after the money was stripped out
8 of the account.

9 As soon as I found out about it, I filed for
10 an injunction. That was money that belonged to Steel
11 Seal Pro which you have heard was owned by Brian Hipple
12 alone. And, you know, I'm going to show you with
13 Melissa Moreno that she didn't include Steel Seal Pro
14 that had \$200,000 in its bank account as an asset of
15 Brian Hipple nor did she include SCIX as an asset of
16 Brian Hipple, which we say they -- they intended to
17 transfer the patents but they didn't do it effectively,
18 and we recorded the --

19 MR. HIPPLE: Your Honor, am I allowed to
20 object? Object.

21 MR. BERKOWITZ: -- I'm making oral argument.
22 I don't think it's appropriate for an objection at this
23 point, Your Honor.

24 THE COURT: Right.

25 MR. BERKOWITZ: It didn't include Steel Seal

1 Pro nor did she include SCIX on Brian Hipple's inventory
2 of assets at the time of his death. At the time of
3 Brian Hipple's death, he owned Steel Seal Pro and there
4 was at least \$150,000 in the bank on that day. And he
5 owned SCIX and I had judgments recorded against the
6 patents at that point. They don't appear on the
7 inventory.

8 Melissa Moreno gets her million dollar life
9 insurance policy. Brian Hipple's estate gets closed out
10 with no assets. I've now got SCIX that purportedly owns
11 a patent that's been leapfrogged by a new formula, and
12 you've heard a lot of testimony about that, and Steel
13 Seal Pro has no assets. That's why we have all these
14 defaults of even Brian Hipple. Melissa Moreno
15 defaulted. She is a party to this case. She defaulted.
16 Why? Because SCIX has nothing. We've been chasing SCIX
17 for five years.

18 Steel Seal Pro has nothing because she gave
19 all that money and you'll see that and you heard
20 yesterday a bit about what happened to that money, and
21 you'll hear the rest of it today. We heard Complete
22 Group, you know, that's all gone. They defaulted.
23 Steel Seal, you heard yesterday about Steel Seal, well,
24 they defaulted. All of these corporate entities and
25 even the estate of Brian Hipple evaporated to air as a

1 result of -- no other than concerted action.

2 Mr. Shavel represented Complete Group in that
3 litigation. He was actually counsel to Clement Hipple
4 and Complete Group and Steel Seal in this case when he
5 did what he did in the Complete Group case in Bucks
6 County.

7 Any attorney that's practiced for a while and
8 Mr. Shavel has practiced for a while, you know these
9 rules, and you also know the holes in the rules.
10 There's nobody in the clerk's office, the prothonotary's
11 office that's going to challenge things upon a filing of
12 an attorney unless somebody else complains. But there
13 was nobody to complain here. That's why Mr. Shavel
14 needs to testify, Your Honor. No attorney/client
15 privilege at all.

16 THE COURT: Mr. Sullivan, do you wish to be
17 heard before I rule?

18 MR. SULLIVAN: No, Your Honor.

19 THE COURT: Okay. Mr. Hipple, do you wish to
20 be heard before I rule?

21 MR. HIPPLE: Yes, Your Honor. I believe that
22 his statement in reference that the money did not belong
23 to Complete -- Complete Group is incorrect, okay? That
24 money --

25 THE COURT: Well, we're getting -- we're

1 getting into the merits of the case.

2 MR. HIPPLE: Okay.

3 THE COURT: I mean -- no, I -- I know you
4 disagree with a lot of the things he said, but, really,
5 I think we're getting a little far afield of what the
6 issue is. The issue is whether Mr. Shavel should
7 testify. We -- a lot of it was argument as to the
8 merits of the case which, obviously, I'm going to decide
9 at a later point. But go ahead, I didn't mean to cut
10 you off. But I --

11 MR. HIPPLE: Oh, no, that's --

12 THE COURT: -- I know you disagree with a
13 lot --

14 MR. HIPPLE: Basically, the point is that that
15 money belonged to me under the license agreement, right?

16 THE COURT: Right. I understand your point.

17 MR. HIPPLE: And it's clear on its face, Your
18 Honor.

19 THE COURT: All right. Well, look, there are
20 two doctrines that I think are implicated by the motion
21 that's been filed by Hill Wallack for a protective order
22 or to quash the subpoena under Rule 45, and that is the
23 work product doctrine and also the attorney/client
24 privilege.

25 I'm going to grant the motion to quash because

1 I believe that what is being sought here by the
2 plaintiff here are the mental impressions, conclusions,
3 opinions and legal theories of an attorney who
4 represented Mr. Hipple, and it's -- I think it's related
5 litigation. The litigation that Mr. Shavel represented
6 Mr. Hipple in the State Court, in the Court of Common
7 Pleas of Bucks County is directly related to all the
8 issues that are in front of me today.

9 The work product doctrine protects not only
10 tangible documents but intangible opinion, work product
11 opinion, and -- and that is the subject of what I
12 believe the plaintiff is seeking here, the opinions of
13 Mr. Shavel. To the extent that he's asking what, if
14 any, information was conveyed to him by Mr. Hipple, that
15 is conveyed to Mr. -- by Mr. Hipple to Mr. Shavel, that
16 implicates the attorney/client privilege.

17 And I'm not going to allow any testimony into
18 that area even though I understand Mr. Berkowitz is
19 telling us that he's not going to ask Mr. Shavel about
20 attorney/client privileged information, I believe that
21 that's going to be implicated in the matter of the
22 testimony.

23 The only thing that's left in my view is the
24 need to authenticate certain documents that either were
25 generated or signed by Mr. Shavel and most of them were

1 public documents that were filed in the Court of Common
2 Pleas, in other words, Court documents which under our
3 Rules of Evidence, are admissible and are authenticated
4 because they're public documents.

5 Letters that came from the Hill Wallack firm,
6 yes, I could see the need to authenticate them. But
7 prior attorney for Mr. Hipple, Ms. Bowman, represented
8 at least by putting these exhibits in the defense binder
9 that she wasn't going to object or she wasn't going to
10 challenge the authenticity of letters that were sent by
11 the Hill Wallack firm. I don't believe Mr. Hipple is
12 going to challenge that when an attorney wrote a letter
13 on his behalf that that's a fake document or an
14 authentic document. You're going to agree they're
15 authentic, right?

16 MR. HIPPLE: Yes, I am, Your Honor.

17 THE COURT: So I don't see there's any need to
18 call Mr. Shavel for the plaintiff to proceed and prove
19 her case. I think that testimony would be duplicative
20 and cumulative in that regard.

21 With respect to the work product document --
22 work product doctrine, the Court of Appeals has said
23 that, "The work product opinion doctrine receives
24 greater protection than the ordinary work product and is
25 discoverable only upon a showing of rare and exceptional

1 circumstances."

2 And that's the case of Cendant, C-E-N-D-A-N-T,
3 Corporation Securities Litigation at 343, F.3d, 658,
4 Third Circuit, 2003.

5 I find that the plaintiff has not made a
6 showing of rare and exceptional circumstances to
7 dispense with the protection of the work product
8 doctrine and specifically the opinions, thoughts, legal
9 theories and mental impressions of Mr. Shavel.

10 That's my ruling. Okay? You're excused, Mr.
11 Sullivan and Mr. Shavel.

12 MS. SULLIVAN: Thank you very much, Your
13 Honor.

14 THE COURT: Okay. All right. Let's proceed
15 with the trial, Mr. --

16 MR. HIPPLE: Geisser.

17 MR. BERKOWITZ: Geisser.

18 THE COURT: Thank you.

19 MR. BERKOWITZ: Your Honor, while Mr. Geisser
20 is getting up there, I would just -- I don't want to
21 belabor any points, but I would like to renew the
22 objection that the questions being asked go well -- well
23 beyond the scope of the direct, the redirect and the
24 cross. They've all been asked in the cross.

25 And I would like to point out to the Court

1 that Ms. Bowman, myself and the Court, we all planned
2 for this trial to be completed in five days. I'm going
3 on vacation. Ms. Bowman discussed with me the fact that
4 she's going on vacation on Saturday.

5 And I understand the indulgence that a pro se
6 defendant is entitled to, but I don't think it's
7 unlimited. And I think -- I can complete my case today.
8 I no longer have Mr. Shavel, but you have agreed that
9 the evidence that I need is admitted. I'm okay with
10 that. I have two witnesses left.

11 THE COURT: Who are your two witnesses?

12 MR. BERKOWITZ: I have subpoenas out for
13 Melissa Moreno and Mr. Berghof and I am done. I am
14 ahead of my schedule. I will be done today assuming Mr.
15 Geisser finishes.

16 THE COURT: Who is Mr. Berghof? Who is that?

17 MR. BERKOWITZ: Colonial Chemical.

18 THE COURT: Oh, Colonial Chemical. Right,
19 that's right. Okay. All right. Well, listen, I'm very
20 upset, you know, there was a representation to me
21 yesterday that there were no more questions, and that's
22 why we proceeded with your redirect. That's the way I
23 understood it, but because he's acting pro se, I'm going
24 to allow him to ask these questions.

25 But, Mr. Hipple, you've got to get to the

1 point, please.

2 MR. HIPPLE: Yes, Your Honor. I intend to --

3 THE COURT: Okay. You've been at this for a
4 long while.

5 MR. HIPPLE: -- eliminate the majority of the
6 questions today, okay?

7 THE COURT: All right. Let's -- let's finish
8 it up.

9 MR. HIPPLE: I have maybe ten questions and a
10 few exhibits and that's it. I'm done. Okay.

11 THE COURT: All right.

12 MR. BERKOWITZ: Your Honor, one housekeeping
13 matter.

14 THE COURT: Sure.

15 MR. BERKOWITZ: I had mentioned and it's on
16 the docket, Judge Baldi's decision. Can I hand that
17 up --

18 THE COURT: Sure.

19 MR. BERKOWITZ: -- and ask the Court to take
20 judicial notice of the opinion issued by Judge Baldi?

21 THE COURT: Okay.

22 (Pause in proceedings.)

23 MR. HIPPLE: Your Honor, if we may, again, it
24 would speed up the process if Mr. Pederson could just do
25 the reading part.

Mr. Geisser - Cross

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1 THE COURT: All right. I'll allow him to do
2 the reading.

3 MR. HIPPLE: Good morning, Mr. Geisser.

4 WAYNE GEISSE, Plaintiff's Witness, Previously
5 Sworn, Resumes.

6 CROSS-EXAMINATION

7 BY MR. HIPPLE:

8 Q Good morning, Mr. Geisser. Can you go to Exhibit D
9 of your report?

10 A Good morning. I sure can. I have it.

11 Q Under the column marked 2012, what is the amount of
12 the expense for A&C, and I presume that's A&C Building
13 and Industrial Maintenance, the first row.

14 A That is correct. The amount under the 2012 column
15 is \$160,600.

16 MR. BERKOWITZ: Can I just ask which exhibit?

17 MR. PEDERSON: Exhibit D.

18 MR. BERKOWITZ: D. Okay.

19 BY MR. PEDERSON:

20 Q And are there actually two amounts listed here for
21 2012?

22 A No. There's -- you asked -- I'm sorry. The answer
23 is yes because we annualized the 2012 amount which
24 became \$214,133. So to clear that up is --

25 Q Okay. Well, I was going to --

Mr. Geisser - Cross

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1 A -- the nine-month period of time is \$160,600. The
2 annualized amount is \$214,133.

3 Q Okay. Can you explain how the annualization method
4 works?

5 A The annualization method, we simply took the nine-
6 month period of time and said that was 75 percent of the
7 year and did the math and came out with the numbers that
8 appear on the right-hand side.

9 Q Okay. Can you go to Exhibit E-3?

10 A I have it.

11 Q Do the payments to A&C on Exhibit D come from this
12 section of your report?

13 A I'm sorry. Could you repeat that? I couldn't quite
14 hear you.

15 Q Sure. Do the payments to A&C on Exhibit D come from
16 this section of your report?

17 A That's correct, yes.

18 Q Can you go to October 4, 2010, on E-3, which I think
19 is page 31?

20 A Correct. Got it.

21 Q Is there a payment reflected to A&C on this date?

22 A Yes, there's a \$40,000 payment on October 4th, 2012.
23 This is the one we were talking about the other day that
24 was taken out after Mr. Hipple's -- Brian Hipple's
25 death.

Mr. Geisser - Cross

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1 Q Was this payment included in the determination of
2 payments to A&C appearing on Exhibit D?

3 A Yes, it was.

4 Q Which column was it included in?

5 A Well, it was initially included in the nine-month
6 period because the -- the exhibit is constructed from
7 the detail that appears in Exhibit E-3.

8 Q So the amount -- if the payment of \$40,000 was
9 included in the 2012 amount before annualization, what
10 would the impact of annualization have been on this
11 amount?

12 I think the point is that this expense is
13 after September 30. You indicated earlier that when you
14 did an annualization, you went through September 30 and
15 then divided by nine and multiplied by 12.

16 (Pause in proceedings.)

17 A I believe I explained this in Exhibit -- excuse me
18 -- Footnote C to Exhibit D. Let me direct your
19 attention to that --

20 Q Oh, actually, why don't I ask the question again.

21 MR. BERKOWITZ: Objection. Mr. Geisser is
22 answering the question.

23 THE COURT: Right.

24 MR. BERKOWITZ: He should be allowed to
25 answer.

1 THE COURT: Sustained.

2 THE WITNESS: Footnote C to Exhibit D reads as
3 follows: "Although the FNB statements include months
4 after September, 2012, the activity in the account is
5 very limited after Brian Hippel's death on September
6 30th, 2012. So we have annualized amounts shown above
7 based on the nine months of available data and divided
8 by 12."

9 BY MR. PEDERSON:

10 Q All right. I'll ask the question again. If the
11 payment of \$40,000 which was made after the nine months
12 was included in the 2012 amount before annualization,
13 what would the impact of annualization have on this
14 amount?

15 MR. BERKOWITZ: Object. The question was just
16 asked and just answered.

17 THE COURT: All right. I'll sustain the
18 objection. You have to ask something different.

19 BY MR. PEDERSON:

20 Q Is the \$40,000 included in your distribution for the
21 annualized 2012?

22 A Yes, it is.

23 Q And the \$40,000 was actually paid after September of
24 2012?

25 A That's correct.

Mr. Geisser - Cross

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1 Q But you don't see the \$40,000 as being counted
2 twice? That being -- it's being counted in 2012 as
3 \$160,000 and again expanded to \$214,133 when it's been
4 annualized?

5 A Well, when we did the annualization, we -- we used
6 the methodology that's described in Exhibit -- excuse me
7 -- Footnote C. The fact that it was taken after the
8 fact is -- that's true, but we're trying to get a sense
9 of what a full annual period would be. So the fact that
10 he took that money out after Brian Hipple's death in
11 September of 2012, it's true, we don't -- we don't
12 challenge that.

13 But we -- by the same token, it could have
14 probably -- but for Brian Hipple's death, it may have
15 been taken out before that. So in terms of trying to
16 develop an annual period of time, we included that as
17 part of the annualization process.

18 Q What was the annual amount for 2011?

19 A The annual amount for what?

20 Q A&C Building and Industrial Maintenance, yes.

21 A \$160,000.

22 Q And the amount before you annualized for 2012?

23 A \$160,000.

24 Q The 2012 annual distribution is used in your SDE
25 calculation?

1 A I'm sorry. I had trouble hearing you.

2 Q Sorry. Are the 2012 annualized distributions
3 included in your SDE calculation?

4 A Yes. They're considered as a part of the overall
5 calculation. But we, if you look at Exhibit F, you'll
6 recall that Exhibit F which is where we show the three
7 years of distributions, namely \$558,000 in 2010; 608 in
8 2011; 690 in 2012, was reduced and averaged over that
9 period of time.

10 So the point of this is that we're not trying
11 to get absolute precision with any given year, but to
12 give an overall view of what was being taken out on an
13 annual basis. And so that it gets -- it gets averaged
14 down if you will as part of that process, because my
15 conclusion, if you look at the conclusion in Exhibit F,
16 we say the three-year average is 619,000. The
17 calculation that derives from that, multiplying by 2.92
18 is 1.8 million. Well, we didn't use 1.8 million. We
19 used 1,750,000. So I was trying to be conservative by
20 pushing the overall valuation calculation and conclusion
21 down to a lower number.

22 So the point of what I'm trying to convey here
23 is that we're trying to give an overall view of what the
24 ability of this enterprise -- the Steel Seal enterprise,
25 had the ability to produce over an extended period of

Mr. Geisser - Cross

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1 time. So there's a blending and averaging process
2 that's going on, and that's -- that's what we did.

3 Q If you had calculated the A&C expense through only
4 September 30 for 2012, what would the amount be?

5 MR. BERKOWITZ: Objection. I believe he
6 answered that question already.

7 THE COURT: I'll overrule the objection. Go
8 ahead.

9 THE WITNESS: If -- you're going to have to
10 repeat the question.

11 BY MR. PEDERSON:

12 Q Sure.

13 A Speak into the mike, I'm really having trouble
14 hearing you.

15 Q Sorry. A&C Building and Industrial Maintenance for
16 2012 on Schedule D is listed at \$160,600. If you have
17 excluded -- if you were to exclude the payments that
18 were actually made after September 30, what would the
19 total be?

20 A That would --

21 Q A single payment of \$40,000?

22 A -- well, that would take a little bit of calculation
23 to go through because we're --

24 Q It's a \$40,000 payment. You just looked at it on
25 E-3.

Mr. Geisser - Cross

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1 A Yeah, but it's -- the impact is not \$40,000. We'd
2 have to go -- we'd have to run the calculation through a
3 number of different --

4 Q I was just asking for what number would appear on
5 Exhibit D instead of 160,600?

6 MR. BERKOWITZ: Objection. Your Honor, Mr.
7 Pederson has been allowed to read --

8 THE COURT: Right.

9 MR. BERKOWITZ: -- questions, he is --

10 THE COURT: I'll sustain the -- Mr. Pederson,
11 you're going beyond -- your role is to read the
12 questions.

13 MR. PEDERSON: Yes, sir. These are related to
14 this issue.

15 THE COURT: But you're now -- you're now going
16 beyond that and asking your own questions. I'm not
17 going to permit that. So I'll sustain the objection.
18 Just read the questions. If there's any follow-up, Mr.
19 Hipple has to do that.

20 MR. PEDERSON: Yes, Your Honor.

21 THE COURT: Otherwise, we have the unusual
22 situation of one expert cross-examining another expert
23 which --

24 MR. PEDERSON: I understand.

25 THE COURT: -- we're not going to permit.

1 BY MR. PEDERSON:

2 Q In testimony --

3 THE COURT: Because otherwise I'll have to let
4 their expert cross-examine you, and I don't think you'll
5 be happy with that. So go ahead.

6 BY MR. PEDERSON:

7 Q In testimony yesterday, you indicated that bank
8 records were subpoenaed from various banks, is that
9 correct?

10 A Yes.

11 Q Who determined which accounts to subpoena?

12 A Clearly Mr. Berkowitz subpoenaed the accounts. I
13 believe he tried to get all the records that were
14 available, and he was able to obtain these particular
15 accounts.

16 Q Okay. Did you request bank accounts for 2007 and
17 2009 to be subpoenaed?

18 A I did not make any requests for any specific
19 documents to be subpoenaed. Mr. Berkowitz was
20 aggressive, as I understand it, trying to get the
21 information because -- indirectly because he couldn't
22 get it directly. And so he was -- he was using
23 subpoenas to the extent that he thought was appropriate,
24 and I'm sure he was trying to be as inclusive as
25 possible.

Mr. Geisser - Cross

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1 MR. PEDERSON: You can ask questions any time.

2 MR. HIPPLE: Yeah.

3 BY MR. HIPPLE:

4 Q But you could have gotten the records for that time
5 period, correct?

6 A Just to be clear about what you're asking, you're
7 asking about the bank records --

8 Q Yes.

9 A -- for 2007 and '08?

10 Q Right.

11 A Is that what I heard in the question?

12 Q What the question is to you is that you would have
13 had the availability to -- you filed for the bank
14 records. It was within a seven-year period, okay?
15 Therefore, you would have had the availability to get
16 the bank records back to 2007?

17 MR. BERKOWITZ: Objection. He's asking this
18 witness to answer a question about what records I could
19 have subpoenaed. Mr. Geisser can't answer that.

20 MR. HIPPLE: All right. Let me rephrase the
21 question, Your Honor.

22 THE COURT: Right.

23 BY MR. HIPPLE:

24 Q As far as your knowledge is concerned, okay, is the
25 -- or does a bank allow you to go back seven years for

Mr. Geisser - Cross

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1 their records?

2 A If you're asking my general understanding of bank
3 record retention policies, as enumerated by the bank
4 regulators, yeah, seven years sounds like --

5 Q Okay.

6 A -- the typical period of time that we talk about,
7 yes.

8 Q So, therefore, the date that he filed for the bank
9 records would have fell under -- we could have gotten
10 the bank records back to 2007, correct?

11 A Mr. Hipple, I don't know when he subpoenaed the
12 records. That was something that was done outside of my
13 responsibility.

14 Q Hold on for a minute.

15 MR. PEDERSON: I'm next going to have you read
16 from SSVS Number 1, paragraph 43.

17 MR. BERKOWITZ: I'm sorry, that was SSVS?

18 MR. PEDERSON: Yes.

19 MR. BERKOWITZ: What is that?

20 MR. PEDERSON: Statements on standards for
21 valuations.

22 MR. BERKOWITZ: Oh, okay. Is that one of the
23 exhibits that you introduced before?

24 MR. HIPPLE: Yes, he has.

25 THE WITNESS: I have it from yesterday. It's

Mr. Geisser - Cross

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1 not marked as an exhibit, but, again, paragraph --

2 MR. HIPPLE: Well, it was an exhibit in the
3 book but we didn't have all the pages. You have the
4 full copy.

5 THE WITNESS: Understood. Thank you. The
6 paragraph, Mr. Pederson?

7 MR. PEDERSON: I think this indicates
8 paragraph 43.

9 THE COURT: And what do you want him to do,
10 read it? Do you want to point something out to him?

11 MR. PEDERSON: Yes. No, read paragraph 43,
12 Your Honor.

13 THE COURT: Read it to himself?

14 MR. PEDERSON: Read it out loud.

15 THE COURT: Why don't -- what -- I'm not going
16 to have him just read things into the record. Do you
17 have a question for him? You know, did he read that?
18 Does he agree with it? I'm okay with that.

19 MR. PEDERSON: We'll ask him to read it and
20 then whether or not he agrees with it.

21 THE COURT: Okay. Why don't you read it to
22 yourself, Mr. Geisser, and then just see if you -- tell
23 us whether you agree with it, were you aware of it?

24 (Pause in proceedings.)

25 THE WITNESS: I agree with it.

Mr. Geisser - Cross

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1 BY MR. PEDERSON:

2 Q All right. And then we have one other reading from
3 Shannon Pratt, page 29. I don't think that's an
4 exhibit.5 THE COURT: Who's Shannon -- Shannon Pratt,
6 what's that or who is that?7 MR. PEDERSON: This is from a treatise for
8 valuation experts.9 MR. BERKOWITZ: I object to this question. I
10 think it's not in evidence. It has nothing to do with
11 this case. There's no question presented.

12 THE COURT: Right.

13 MR. BERKOWITZ: I don't think it's proper for
14 Mr. --15 THE COURT: He doesn't have it either. He
16 doesn't have it in front of him.

17 MR. PEDERSON: We have a copy, Your Honor.

18 THE COURT: All right. I'll overrule the
19 objection. Why don't you show it to him?20 THE WITNESS: Your Honor, just before we go
21 on --

22 THE COURT: Yes.

23 THE WITNESS: -- can I just make a comment
24 about this paragraph?

25 THE COURT: Sure.

Mr. Geisser - Cross

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1 THE WITNESS: This paragraph does not pertain
2 to calculation of value necessarily. This pertains to
3 an opinion of value.

4 THE COURT: Okay.

5 THE WITNESS: So it's -- it's a paragraph
6 that, while it has some -- some meaningfulness in terms
7 of what I did in terms of the calculation of value, it's
8 actually in the context of an opinion of value, which we
9 did not do.

10 THE COURT: Right.

11 THE WITNESS: So I just want to make that
12 clear for the record.

13 THE COURT: All right. Why don't you show him
14 the book or paragraph?

15 MR. PEDERSON: Yes, Your Honor.

16 THE COURT: Yes. You can -- you can approach.

17 MR. PEDERSON: Thank you.

18 THE COURT: So why don't you identify -- what
19 are you showing him? What is it?

20 MR. PEDERSON: This is from -- evaluation
21 authoritative literature that's considered in the
22 valuation industry.

23 THE COURT: Okay.

24 MR. PEDERSON: Shannon Pratt actually is a
25 very well-known author, and she's written many books on

Mr. Geisser - Cross

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1 valuing businesses.

2 THE COURT: All right. Are you familiar with
3 this book, Mr. Geisser?

4 THE WITNESS: I'm certainly with Shannon
5 Pratt. I don't know about this book. We have many
6 books on valuation --

7 THE COURT: Okay.

8 THE WITNESS: -- in our library. I don't know
9 if we have this one specifically.

10 MR. PEDERSON: And I think we're going to read
11 this one paragraph, the concept of share market value.
12 Can you read that one out loud?

13 THE WITNESS: You're asking me to read
14 paragraph --

15 MR. PEDERSON: Yes.

16 THE WITNESS: "The concept of fair market
17 value also assumes prevalent economic and market
18 conditions at the date of the particular valuation. You
19 have probably heard someone say, 'I couldn't get
20 anywhere near the value of my house if I put it on the
21 market today,' or 'The value of XYZ Company stock is
22 really much more (or less) than the price it's selling
23 for on the New York Stock Exchange today.'

24 "The standard of value that those people have
25 in mind is some standard other than fair market value,

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1 since the concept of fair market value means the price
2 at which the transaction could be expected to take place
3 under conditions existing at the valuation date."

4 BY MR. PEDERSON:

5 Q Do you agree with that statement?

6 A Yes.

7 THE COURT: Yes, you can get -- you can get
8 the book.

9 MR. HIPPLE: I can do this one.

10 MR. PEDERSON: Okay.

11 BY MR. HIPPLE:

12 Q New business, what would it cost for myself, Mr.
13 Hipple, to start a business like Steel Seal Pro?

14 MR. BERKOWITZ: Object to the question. It's
15 beyond the scope of the expert report and the engagement
16 that Mr. Geisser has testified to.

17 THE COURT: Repeat the question, Mr. Hipple,
18 again.

19 MR. HIPPLE: Yes. I was -- I was asking his
20 opinion of what it would cost for me to go out and just
21 start a new business with inventory, advertising,
22 website, which I already own, packaging and other
23 expense.

24 THE COURT: I'll sustain the objection. It is
25 beyond the scope --

Mr. Geisser - Cross

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1 MR. HIPPLE: Okay.

2 THE COURT: -- of his opinion and his
3 testimony here.

4 MR. HIPPLE: Part of the question was, would
5 it cost more than 1.75 million.

6 THE COURT: I sustained the objection.

7 BY MR. PEDERSON:

8 Q Go to Exhibit E-2.

9 A I have it.

10 Q All right. And I think here it says, "Please review
11 the detail beginning on page one of the support
12 schedules and please note if there are any cost of goods
13 sold entries."

14 MR. BERKOWITZ: I'm going to object to the
15 form of the question. I'm not sure there was a question
16 there.

17 MR. PEDERSON: Actually, I don't think there
18 is.

19 Well, actually, "please note if there are any
20 cost of goods sold entries," so there is a question
21 here, Your Honor.

22 THE COURT: All right. I'll permit it.

23 BY MR. PEDERSON:

24 Q We're going to take a look at page one.

25 A I'm looking at page one, and by way of explanation

Mr. Geisser - Cross

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1 as I said yesterday, the categorization we used appears
2 in the far right-hand column, and it's -- it tracks
3 whether the item is a debit or credit and it uses a
4 categorization system, for example, revenues, expenses,
5 distributions. It looks like that's the three
6 categories that appear on that page.

7 Q Okay. So on this page -- I'm sorry, I didn't mean
8 to interrupt there. On this page --

9 A So -- so that's -- that's the process that we use.
10 So if something is recorded as expense, that's a -- that
11 we would consider that to be an expense of the Steel
12 Seal Enterprise.

13 Q Okay. So there are no cost of goods sold entries on
14 this page, is that your response?

15 A Well, there's a number of items that are classified
16 as expense. I -- because --

17 Q Actually, I think the question --

18 MR. BERKOWITZ: Objection.

19 MR. PEDERSON: -- is there any cost of
20 goods sold entries.

21 MR. BERKOWITZ: The witness is answering the
22 question.

23 THE COURT: Yes. Let him finish.

24 THE WITNESS: I want to finish because --

25 BY MR. PEDERSON:

1 Q Certainly.

2 A -- you'll recall that we had the discussion
3 yesterday about the lack of QuickBook records. We've
4 never been provided with the underlying detailed
5 accounting records. If we had the underlying detailed
6 accounting records, then we could -- we could look at a
7 given track or a given disbursement and we could see
8 exactly how it was charged in the accounting records.

9 This is a reconstruction that we did, it's a
10 reconstruction based on the bank records that were
11 available. So we went through there and we classified
12 things as being either revenue or expense or
13 distributions. They're the general categories that
14 appear at least on this page.

15 So it was not really important to us to say
16 whether something was a cost of goods sold, something
17 what I'll describe as above the line or an expense below
18 the line. So whether it was a telephone expense or it
19 was a disbursement to Colonial Chemical was of no
20 consequence to us in terms of what we were trying to
21 identify which were the distributions in this particular
22 context.

23 It was simply accounting for every -- every
24 piece of -- every revenue source. We're accounting for
25 every disbursement source at the same time. So this --

Mr. Geisser - Cross

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1 this analysis goes through each and every item in that
2 fashion. But the focus of what we were trying to
3 accomplish was to identify those items that were
4 distributions in nature and then put everything else off
5 to the side because it doesn't really enter into the
6 calculations that we went through.

7 Q All right. Does that mean that there is or is not a
8 cost of goods sold entry on page -- on the first page of
9 this exhibit?

10 MR. BERKOWITZ: Objection. That's a cross-
11 examination question and not something for --

12 MR. PEDERSON: No, it's the same question
13 we've been asking.

14 THE COURT: All right. Sustained. You can't
15 cross-examine him. You can -- you're the reader here
16 today.

17 MR. PEDERSON: Yes, sir. And the question was
18 are there any cost of goods sold entries.

19 MR. BERKOWITZ: There's been an objection,
20 Your Honor.

21 THE COURT: All right. I'll sustain the
22 objection. I'll sustain the objection. You may
23 proceed. Go with a new question.

24 MR. PEDERSON: Well, Your Honor, this line of
25 questioning relates to identifying where the cost of

Mr. Geisser - Cross

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1 goods sold first appear.

2 MR. BERKOWITZ: Objection. He's arguing as a
3 lawyer right now, Your Honor.

4 MR. PEDERSON: No, Your Honor.

5 THE COURT: Why don't you --

6 MR. PEDERSON: But we're trying to read the
7 document.

8 THE COURT: -- why don't you read it, Mr.
9 Hipple. Is there --

10 MR. HIPPLE: Okay. "Note. Are there any
11 cost" --

12 MR. PEDERSON: Actually, this is where the
13 sentence starts.

14 MR. HIPPLE: Okay. I'm going right -- right
15 back here because it's not showing any cost of goods
16 sold.

17 BY MR. HIPPLE:

18 Q Okay. "Therefore you never identified any costs of
19 good sold on your report."

20 A I disagree.

21 Q Where are the -- identify it.

22 A If you go back and look on Exhibit E-2, there's a
23 summary sheet that appears on the first page of Exhibit
24 E-2.

25 THE COURT: Third line from the top, is that

Mr. Geisser - Cross

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1 right, Mr. Geisser?

2 THE WITNESS: That is correct, Your Honor.

3 So we went through that process that I just
4 described and we -- we used these classifications. So
5 our conclusion was, after having gone through that
6 process, there was \$187,682.60 in cost of goods sold
7 that appeared in the -- in the disbursements.

8 BY MR. HIPPLE:

9 Q All right. If I -- if I look at the breakdown, it
10 doesn't show any cost of goods sold until April on the
11 summary.

12 A I would have to go through that and look in detail.

13 Q Well, it's the first time it says cost of goods
14 sold. Everything else is revenue, expenses.

15 MR. PEDERSON: I think he's on page ten of
16 your --

17 MR. HIPPLE: Page ten.

18 MR. PEDERSON: -- detail analysis.

19 BY MR. HIPPLE:

20 Q And -- a little bit more.

21 A I would agree that on page ten there's a
22 disbursement, check number 181, in the amount of \$17,550
23 to Colonial Chemical.

24 If I go through the pages that appear before
25 that, page nine, there's a disbursement on 3-21-2011,

Mr. Geisser - Cross

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1 check number 171, for \$114 to Colonial Chemical. It's
2 classified as cost of goods sold.

3 If I go to page six of the schedule, on 2-22-
4 2011, there's a check, number 151, for \$167 to Colonial
5 Chemical. It's classified as cost of goods sold.

6 If I go to page three of the -- the check
7 disbursements, on 1-26-2011, check number 124, for \$127
8 to Colonial Chemical charged to cost of goods sold.

9 So I just -- I just covered the period of time
10 that we just talked about, and I think I just related
11 there were quite a few items that were charged in our --
12 in our classification system to cost of goods sold.

13 Q Okay. But what I was trying to get at, the point I
14 was trying to make was that the first time cost of goods
15 appear is in 4 -- 4-4-2011, nothing prior to that.

16 MR. BERKOWITZ: Object, Your Honor, to this
17 line of questioning. Mr. Geisser testified that he
18 worked from bank records. He didn't have the company's
19 books to tell which date things might have been for --
20 for a particular invoice or the like. He's got a
21 benefit from the fact that they didn't produce the
22 records.

23 THE COURT: I'll overrule -- I'll overrule the
24 objection. Mr. Geisser can answer the question.

25 THE WITNESS: Mr. Hipple, the bank records for

Mr. Geisser - Cross

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1 the FNB account ending in 512 begin in January of 2011.
2 The Wachovia records that we had available to us, if you
3 look on Exhibit -- if you look on Exhibit E-1, E-1 of
4 the Wachovia records. Let me direct your attention to
5 the first page of E-1, it's a summary sheet.

6 BY MR. HIPPLE:

7 Q Hold on a minute.

8 A You can see that on that summary sheet -- I'll just
9 give everybody a minute to get there -- that those
10 records cover a period from September of 2009 up through
11 September 30th, 2010. If you look over in the balance
12 column, the balance goes to zero. In fact, there's a
13 negative number there. That's because, as we've all
14 talked about, the account was garnished in that period
15 of time. So that account ceased to be used.

16 I don't have records between the period of
17 time that this Wachovia account was closed and when the
18 FNB account was opened. So there's -- admittedly there
19 was a gap in that record system. So we don't know
20 exactly what happened during that period of time.
21 That's why when we prepared Exhibit D, there's a number
22 of footnotes there that explain the missing documents,
23 the gaps in the information and how we tried to close up
24 that gap -- information by estimating or imputing the
25 transactions for certain periods of time.

Mr. Geisser - Cross

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1 But we didn't have -- we didn't -- I didn't
2 have the bank records before that period of time nor did
3 I have the accounting records for that period of time,
4 so I have difficulty in trying to answer your question.

5 Q Okay. The other question I have is that, okay, you
6 had all the bank records, right, basically, all the
7 checks for the period -- period that you have here,
8 right, is that correct?

9 A If you -- if you --

10 Q You had a list of all the checks and the names on
11 the checks, correct, of all the checks? Of all the bank
12 records?

13 A Of those accounts that we had that we have analyzed,
14 we had that information --

15 Q Right.

16 A -- yes.

17 Q Okay. And you took the time naturally to analyze
18 all the Brian Hipple, the Melissa, the Clement Hipple,
19 the automobile and all those names, but you've never
20 taken any time or any consideration to look at the check
21 -- the other checks that were written, whether they were
22 payroll checks, whether they were for material.

23 I mean, you never -- you never looked at the
24 -- any facts of the names of the checks other than the
25 ones that you were told to look at to identify the

Mr. Geisser - Cross

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1 amounts? So everything else is a broad statement
2 basically except for the -- what you were actually told
3 by Mr. Berkowitz to look for?

4 THE COURT: That last -- I'm going to strike
5 that last sentence because I think it's more --

6 MR. HIPPLE: Broad statement.

7 THE COURT: -- more argument --

8 MR. HIPPLE: Okay. Let me rephrase the
9 question.

10 THE COURT: -- but I think what you're asking
11 he only looked at limited bank accounts. Are some other
12 bank accounts out there he should have looked at? Is
13 that what you're suggesting?

14 MR. HIPPLE: No, no. I'm saying that he
15 received all the checks, what the checks -- each check
16 had a name on it, Your Honor, okay?

17 THE COURT: Okay.

18 MR. HIPPLE: Naturally, to a payee, okay?

19 THE COURT: Right.

20 MR. HIPPLE: They directed their attention
21 only to the payees that Mr. Berkowitz told him to.

22 THE COURT: All right. Is that true or not?

23 THE WITNESS: No, it's absolutely not true.

24 If you look at Exhibit E-2 and E-3, you can see there's
25 a column that says payee and we list the payee. So to

Mr. Geisser - Cross

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1 say that we didn't pay attention to that, I'm looking at
2 page one of Exhibit E-2 and I see American Express, I
3 see Verizon, I see Quaint Oak Bank. I see Robert
4 Dasillo (ph). I see Melissa Moreno. I see World Wide
5 Web Communications. I see Roland Nelson (ph). I see
6 Verizon. We listed every check.

7 BY MR. HIPPLE:

8 Q Okay.

9 A We listed every check, and we classified every check
10 that we had available to us in one of those categories
11 that appear on the summary sheets before the -- E-2 and
12 E-3.

13 Q Okay. On the summary sheet number one, okay, under
14 the payee column, let's go there.

15 MR. PEDERSON: It's on E-2.

16 MR. HIPPLE: E-2.

17 MR. PEDERSON: Page one of the --

18 THE WITNESS: Okay. I'm looking at Exhibit
19 E-2.

20 BY MR. HIPPLE:

21 Q Under payee.

22 A Page one.

23 Q Under column payee.

24 A Okay. I have it.

25 Q What -- what is -- you know, why are not all the

Mr. Geisser - Cross

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1 payees listed?

2 A I think they are listed. I don't understand why
3 you're saying payees are not listed. Let me -- let me
4 try to help you --

5 Q The name of the payee.

6 A -- let me finish if I can, sir.

7 Q I'm sorry.

8 A Let me try and help you here. There's -- there's
9 blanks under the payees in some cases, right, and you
10 can see that. And you're saying the payees aren't
11 listed.

12 But if you look in the column to the left of
13 that, those are credits that are going into the account.
14 They're not debits. That's money that's going into the
15 account. So there's no reason to have a payee for a
16 credit. That's money that's being accounted for, it's
17 revenue into the account.

18 Every -- every other item that I see on this
19 sheet has a payee identified with the disbursement to
20 the extent that it was available.

21 Q Okay. Okay. All right. And I'll finish up. All
22 right. Okay.

23 Could you turn to -- in Plaintiff's P-127, the
24 white book, keep going, Volume I, I believe. Or not --
25 not --

Mr. Geisser - Cross

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1 THE COURT: 127 or 27?

2 MR. HIPPLE: 127, Volume II. 127.

3 MR. KLEIN: That should be Volume IV.

4 MR. BERKOWITZ: Your Honor --

5 THE COURT: Yes.

6 MR. BERKOWITZ: -- I'd like to object to this
7 question as Mr. Geisser was not asked to analyze Mr.
8 Hipple's personal tax returns. Exhibit 127 is Mr.
9 Hipple's 2009 tax return. It goes beyond the scope of
10 the engagement, beyond the scope of the direct, beyond
11 the scope of the cross, the redirect. I don't think
12 it's proper in this context to have Mr. Geisser review
13 Mr. Hipple's tax return. He can do that himself in his
14 case.

15 MR. HIPPLE: The reason I was asking the
16 question to him, Your Honor, because under his
17 credential, he said he was an IRS agent at one point in
18 time, okay?

19 THE COURT: Right.

20 MR. HIPPLE: And that he's very familiar with
21 tax returns and things of that nature, and I only have a
22 simple question to that tax return.

23 THE COURT: What's your question?

24 MR. HIPPLE: My question is if he could tell
25 me whether or not there was royalty payments on that tax

Mr. Geisser - Cross

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1 return as a --

2 THE COURT: All right. I'll -- I'll sustain
3 the objection. You can't -- I'm not going to allow that
4 question.

5 MR. HIPPLE: Okay.

6 BY MR. HIPPLE:

7 Q Okay. Let's go -- all right, could you turn to page
8 P-20?

9 MR. BERKOWITZ: So is that Exhibit P-20?

10 MR. HIPPLE: No. I'm sorry, yeah, P-20,
11 Exhibit P-20.

12 MR. BERKOWITZ: I'm going to object to the
13 line of questioning. This is not something that Mr.
14 Hipple used -- I'm sorry, Mr. Geisser used. It was
15 never provided to him within the scope of his
16 engagement, and he is probably seeing this for the first
17 time. It hasn't been authenticated. It has never been
18 used and Mr. Geisser can't testify to this document with
19 respect to his engagement.

20 MR. HIPPLE: Your Honor, I'm not asking him to
21 verify or -- or anything of the document. What I wanted
22 to ask him is basically is this -- is this the type of
23 document and the interest, the way it is calculated,
24 would that be a normal procedure?

25 MR. BERKOWITZ: Object. Well -- well beyond

1 the scope.

2 THE COURT: All right. I'll allow it. Go
3 ahead. I'll allow it. Do you have it -- do you have 20
4 in front of you, Mr. Geisser?

5 THE WITNESS: Yes.

6 THE COURT: Okay.

7 THE WITNESS: What I have in front of me is,
8 it's entitled Clement Hipple loans and repayment with
9 interest.

10 THE COURT: All right. The question is, is
11 this something that --

12 MR. HIPPLE: Yes. My question is that, is
13 this actually prepared correctly as far as the interest
14 payments are concerned?

15 THE COURT: Well, we're not going to have him
16 check all the --

17 MR. HIPPLE: No, no, just the --

18 THE COURT: -- the math.

19 MR. HIPPLE: -- just by looking at it. No,
20 no, not the math. Is this -- is this the way it should
21 be prepared?

22 MR. BERKOWITZ: I'm going to object, Your
23 Honor.

24 THE COURT: Yes. I'm going to sustain the
25 objection.

Mr. Geisser - Cross

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1 MR. HIPPLE: Okay.

2 BY MR. HIPPLE:

3 Q Okay. P-33.

4 MR. BERKOWITZ: Did you say P-38?

5 MR. HIPPLE: No, P-33.

6 THE COURT: That's the BBB Management Group
7 profit and loss statement --

8 MR. HIPPLE: Yes, that's correct, Your Honor.

9 THE COURT: -- October 12 through May 13.

10 THE WITNESS: I have it.

11 BY MR. HIPPLE:

12 Q Okay. Any -- anywhere in this statement, do you see
13 any distribution to members or any salary to a member,
14 management member or any -- any money taken out, which
15 would have been my -- Clement Hipple, by the way?

16 (Pause in proceedings.)

17 A I don't see anything on this document identified as
18 a distribution.

19 Q Right. And, just an opinion -- your opinion,
20 management that's working approximately 16 to 18 hours a
21 day -- a day, would be entitled to compensation,
22 correct?

23 MR. BERKOWITZ: Objection.

24 THE COURT: Sustained. I'll sustain the
25 objection.

1 BY MR. HIPPLE:

2 Q All right. The 55 -- or the \$55,000 there at the
3 bottom of the page, net profit, if -- if I would have
4 paid myself, would you say that -- that would have been
5 a reasonable amount for me to receive based on the
6 amount of the sales of the corporation?

7 MR. BERKOWITZ: Objection. Same question,
8 just in a different format.

9 THE COURT: Right. I'll sustain the
10 objection.

11 MR. HIPPLE: Okay.

12 BY MR. HIPPLE:

13 Q All right. Would you turn -- turn to page --
14 Exhibit Number 34.

15 A I have it.

16 Q Okay. In reference to Exhibit Number 24, it looks
17 like it's just a -- it's under Complete Group by the
18 way, the corporation, Complete Group -- it looks like it
19 has no expenses, correct? And it has 400 and some
20 thousand dollars in sales, \$480,000 in sales?

21 A Well, just using it facially, I see that there's
22 \$124,681 --

23 Q That's cost of goods.

24 MR. BERKOWITZ: Objection.

25 THE COURT: Yes, let him finish.

Mr. Geisser - Cross

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1 THE WITNESS: -- in subcontracted services. I
2 would presume that's an expense based on the way it's
3 handled and it's under cost of goods sold. And then
4 there's another -- several, you know, half a dozen
5 others listed here that total up to about 5,796. So
6 this little fragment here of information does contain
7 some indication of some expense for Complete Group.

8 BY MR. HIPPLE:

9 Q Okay. But based on that -- okay. \$480,000 in sales
10 and expenses of \$5,700?

11 MR. BERKOWITZ: Objection. That's not a
12 question.

13 MR. HIPPLE: That is not a question?

14 THE COURT: That -- yes, you didn't finish
15 with a question.

16 MR. HIPPLE: Okay.

17 THE COURT: I think you were trying to, but go
18 ahead.

19 MR. HIPPLE: Okay. I'll try and rephrase it
20 in a proper way.

21 BY MR. HIPPLE:

22 Q Okay. If you have saw a company that \$480,000 in
23 sales, what -- what percentage would you think would be
24 generated as an expense?

25 MR. BERKOWITZ: Objection.

Mr. Geisser - Cross

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1 MR. HIPPLE: No?

2 MR. BERKOWITZ: He's asking this witness --

3 MR. HIPPLE: All right.

4 MR. BERKOWITZ: -- to speculate with no
5 information.

6 THE COURT: I think what you want to ask him
7 is you're trying to say the --

8 MR. HIPPLE: I'm trying to say, Your Honor --
9 okay.

10 THE COURT: -- the ratio between the income
11 and the expenses is -- is much greater, the amount of
12 income dwarfs the amount of expenses, and isn't that --
13 is that unusual, right?

14 MR. HIPPLE: Yes, Your Honor --

15 THE COURT: Okay.

16 MR. HIPPLE: -- that's what I'm trying to get
17 at, because this document was part of the --

18 THE COURT: Right.

19 MR. BERKOWITZ: If I could just --

20 THE COURT: Let --

21 MR. BERKOWITZ: -- supplement my objection?

22 THE COURT: Yes, go ahead.

23 MR. BERKOWITZ: This is a document Complete
24 Group prepared and produced for us. It has a Hipple
25 number on it. It is what it is.

Mr. Geisser - Cross

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1 THE COURT: Right. Right. Does that seem
2 unusual to you, that --

3 THE WITNESS: Your Honor, I -- we took this
4 information and we included it in Exhibit A and B to our
5 report. So this is information we did have available to
6 us.

7 THE COURT: Right.

8 THE WITNESS: And we considered it as a kind
9 of a combined period of time, and if you look at Exhibit
10 A, it does, in fact, try to combine them because when we
11 looked at it, it just didn't seem to -- to fit together,
12 quite honestly.

13 And so that's one of the reasons why we didn't
14 put a lot of credence in the -- in these QuickBook
15 records because we were concerned about the integrity of
16 the -- the accuracy and the way they were maintained.

17 And so we went to -- we defaulted to the bank records --

18 THE COURT: Right.

19 THE WITNESS: -- because we said, here's what
20 we -- we do know. We're using third-party records.
21 Here's what came into the bank account, here's what went
22 out of the bank account. To us, these were -- we took
23 them for what they were. We -- we included the
24 information in the report and we said, okay, that's --
25 that's what it is.

Mr. Geisser - Cross

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1 But you know what, we're going to -- we're
2 going to go back and look at the bank records because we
3 don't have a great deal of faith in what these -- these
4 accounting records or these purported QuickBook records
5 have behind them. And, again, we weren't provided with
6 the QuickBooks. So we had no way of testing them or
7 otherwise looking at the -- at this data.

8 BY MR. HIPPLE:

9 Q Okay. But if you would also look at the dates on
10 the both exhibits.

11 THE COURT: The October 12 through May 13 date
12 you mean?

13 MR. HIPPLE: Right, Your Honor.

14 THE COURT: Okay. Go ahead.

15 BY MR. HIPPLE:

16 Q They're the same, is that not correct?

17 A True.

18 Q Now, is it possible in your mind that the sales of
19 Complete -- yeah -- Complete Group are the same sales of
20 BBB Management?

21 MR. BERKOWITZ: Objection. He's asking this
22 witness to speculate.

23 THE COURT: I'll overrule the objection.

24 THE WITNESS: Well, if -- is it possible? I
25 would say that it would be very strange if it was the

1 same sales.

2 You have -- you're supposed to have two
3 different companies that are in play here. Now, are you
4 telling me that the sales in Company A are the same as
5 sales in Company B, it doesn't really make a great deal
6 of sense to me from an accounting perspective. My
7 understanding was that -- that there's two separate
8 companies, although controlled by the same person,
9 yourself specifically.

10 So we could do no more than take the
11 information as it appeared on the document. We -- we
12 transcribed that information onto our Exhibits A and B,
13 we took it for what it was worth. Everything that
14 appears on these -- these two documents that you just
15 pointed out appears on our Exhibits A and B.

16 So this was information that we considered,
17 and as I said earlier, it's why we went back to the bank
18 records, because we were not comfortable with the
19 integrity of the accounting records that we were
20 provided with. These -- we have to be cognizant this
21 could be just numbers on a page, and we don't know, you
22 know, who -- who prepared them, how they were prepared
23 or anything like that. Just -- they're just two pieces
24 of paper for us.

25 BY MR. HIPPLE:

1 Q Okay. But --

2 A So I don't -- I don't know. Is it possible? Yeah,
3 it's -- it's possible, but I would suggest that that
4 would be a strange situation.

5 Q November, December, January. Okay. So, basically,
6 over seven -- a seven-month period, all right, if we add
7 them both together, it would equal well over a million
8 dollars, is that correct?

9 A Correct. And that's exactly what I show in Exhibit
10 A and B of our report.

11 Q All right. That's what I'm saying, it shows on your
12 report?

13 A Yes.

14 Q But if I was to say to you today that they were the
15 same sales, okay, just transferred over to BBB
16 Management Group, because that was the operating company
17 at the time?

18 A Well, that would be new information to me, number
19 one. Number two, I would have expected your -- your own
20 expert to point that out, which was not in the expert
21 report. So we have no reason to think that they are the
22 same sales. We just don't have any basis to do that.
23 That's why we defaulted back to the bank records.

24 Q Okay. All right. A few more questions. Is it
25 true, Mr. Geisser, that in preparing your report, you

Mr. Geisser - Cross

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1 did not at all consider any part of the Pennsylvania
2 Uniform Fraudulent Transaction --

3 MR. PEDERSON: Transfer.

4 BY MR. HIPPLE:

5 Q -- Transfer Code --

6 MR. PEDERSON: Act.

7 BY MR. HIPPLE:

8 Q -- Act, right. I'm reading it. He won't ask any
9 questions, have him just read.

10 THE COURT: Well, I think we went through this
11 already. I mean, I know there's not an objection, but
12 we got into the terminology that the Act says versus
13 what his task was, and I think he explained what his
14 task was and it's really for me to decide what that Act
15 says and what the requirements of the Act. So I'm going
16 to -- well, I'll let you answer it, but I'm just want to
17 tell you, I think we went down this road.

18 There's no objection, so go ahead. Did you
19 consider that, Mr. Geisser? Do you want to --

20 THE WITNESS: Can I have the full question?

21 THE COURT: Yes. Sure.

22 THE WITNESS: It was -- I'm --

23 THE COURT: Read it again.

24 THE WITNESS: -- I'm sorry.

25 MR. PEDERSON: Here, I'll try to read it for

1 you.

2 BY MR. PEDERSON:

3 Q It's true, Mr. Geisser, that in preparing your
4 report, you did not at all consider any part of the
5 Pennsylvania Uniform Transfer Act -- I'm sorry --
6 Fraudulent Transfer Act, is that correct?

7 A Mr. Pederson, your very description of that, it
8 would seem to be it's a legal document. That would seem
9 to be more in the area of something that Mr. Berkowitz
10 should be considering rather than myself.

11 What was relevant to me is just the -- the
12 standard that's enumerated in that Act which is the
13 reasonably equivalent value language which we discussed
14 before, which does not appear in any valuation
15 literature, so it's -- it's something that's unique to
16 the statute that I would presume would be decided by the
17 Court in terms of how that's to be interpreted.

18 Q And the totality of the circumstances, that's
19 something you would consider when determining the fair
20 market value of a company, correct?

21 THE COURT: I think that was asked and
22 answered, but perhaps I'm wrong.

23 MR. BERKOWITZ: I'll object then. Asked and
24 answered.

25 THE COURT: Yes, I believe it was. So I'll

Mr. Geisser - Redirect

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1 sustain the objection.

2 MR. HIPPLE: Okay. That's all, Your Honor.

3 THE COURT: Anything for you, Mr. Berkowitz?

4 MR. BERKOWITZ: If -- if I can have -- I have
5 one question. I don't want it to open Pandora's Box.

6 THE COURT: No, we're not going to have -- you
7 know, you can ask the question. Go ahead.

8 REDIRECT EXAMINATION

9 BY MR. BERKOWITZ:

10 Q Mr. Geisser, before you came to testify today, did
11 you have an opportunity to look at the BBB Management
12 website as part of your preparation for the testimony?

13 A I did.

14 THE COURT: Go ahead.

15 BY MR. BERKOWITZ:

16 Q And I'm going to hand you this document and ask you
17 to look --

18 MR. BERKOWITZ: -- I have a copy for you, Your
19 Honor.

20 THE COURT: Do you want to mark it?

21 MR. BERKOWITZ: Yes. I've marked these as
22 Plaintiff's Exhibit P-201.

23 THE COURT: Okay.

24 BY MR. BERKOWITZ:

25 Q If you just tell us the second page first, if you

1 could look at that? Do you recall that as being the
2 front page of this exhibit?

3 A Just to be clear about this, the second page is --
4 has a picture of a racing car on the front of it, and it
5 says, "Does your car have a blown head gasket?" That's
6 the second page you're referring to?

7 Q Yes.

8 A Okay. And your question is?

9 Q Did you -- do you recall seeing this?

10 A Yes, I did.

11 Q And didn't you mention to me that it says right at
12 the top, 15 years?

13 A I did. I -- back when I went onto the website, it
14 struck me as an indication that this is one continuous
15 company for 15 years. And that -- that's from a
16 consumer's standpoint, if I read 15-year history, I'm
17 thinking this is one company over 15 years.

18 Q I'd like you to look at the second page, which is
19 the page that says P-201 on it.

20 A I have it.

21 Q And you see at the top there's a date on this? It's
22 hard to read I think.

23 A Yeah, it's dated 7-21-15 at 1:55 p.m.

24 Q Can you see under product description?

25 A I do.

Mr. Geisser - Recross

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1 Q Can you see three bullet points?

2 A I do.

3 Q And can you read that, the second bullet point?

4 A The bullet point under product description says,
5 "Steel Seal has three patents from U.S." -- I believe
6 it's Government, but it's cut off.

7 MR. BERKOWITZ: No further questions.

8 THE COURT: Any questions just regarding this
9 exhibit, Mr. Hipple?

10 MR. HIPPLE: Yes, Your Honor.

11 RECROSS-EXAMINATION

12 BY MR. HIPPLE:

13 Q Basically, I don't think I have any -- well, let me
14 see.

15 THE COURT: Just about this exhibit, that's
16 it.

17 BY MR. HIPPLE:

18 Q But, basically, the website, certain things on the
19 website don't get changed, run -- run forever. Do you
20 agree with that?

21 A I really can't speak to that. I mean, websites
22 change, they stay the same.

23 MR. HIPPLE: All right. I'll deal with this
24 on my side.

25 THE COURT: All right. You're excused, Mr.

1 Geisser. Thank you.

2 THE WITNESS: You're welcome.

3 (Witness excused.)

4 THE COURT: Do you want to break now? It's up
5 to you. I'm okay.

6 MR. BERKOWITZ: I'm ready to go.

7 THE COURT: All right. Let's go. Okay.

8 MR. BERKOWITZ: Call Mr. Berghof to the stand.

9 THE COURT: Mr. Berghof.

10 MR. BERKOWITZ: I believe he's here. Come on
11 up, sir, take a seat right up there, right up to the
12 witness stand.

13 THE COURT: Good morning, sir.

14 THE WITNESS: Good morning. How do you do?

15 COURTROOM DEPUTY: Raise your right hand.

16 LOUIS BERGHOF, Plaintiff's Witness, Sworn.

17 COURTROOM DEPUTY: Please state and spell your
18 last name for the record.

19 THE WITNESS: Spell the last name?

20 COURTROOM DEPUTY: Yes, please.

21 THE WITNESS: My name's Louis Berghof. Last
22 name's B-E-R-G-H-O-F.

23 MR. BERKOWITZ: And, Your Honor, if I could
24 have a little leeway with the witness, I think I could
25 get him through his testimony --

Mr. Berghof - Direct

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1 THE COURT: Fine.

2 MR. BERKOWITZ: -- much more efficiently.

3 THE COURT: Okay.

4 DIRECT EXAMINATION

5 BY MR. BERKOWITZ:

6 Q Thank you for coming, Mr. Berghof. Tell us by whom
7 you're employed.

8 A Colonial Chemical Company.

9 Q And how long have you been employed by them?

10 A Since 2001.

11 Q And are you familiar with a company called SCIX?

12 A I've seen the letters before.

13 Q You've heard the name before?

14 A Yeah, I've heard the name before.

15 Q Okay. And --

16 A I know it as Steel Seal.

17 Q Okay.

18 A Okay.

19 Q That's the product -- that's the company that bought
20 the Steel Seal from you?

21 A Right.

22 Q And the --

23 A Yeah, we package it for --

24 Q Right. You manufacture it and package it?

25 A Yes.

Mr. Berghof - Direct

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1 Q Okay. And you know Mr. Hipple, Clement Hipple?

2 A Yes.

3 Q Okay. How long have you known Mr. Hipple?

4 A Since Brian passed away.

5 Q Okay. So before Brian passed away, you interacted
6 with Brian Hipple?

7 A Yes.

8 Q And did you start interacting with Brian in 2001?

9 A No. Back then I was only a forklift operator.

10 Q Okay.

11 A Okay. So -- I've kind of had promotions through the
12 years so --

13 Q Okay. And you interacted with him through his
14 death, though?

15 A At that time, I was, yes.

16 Q Yes. And at the time you interacted with him, did
17 his role ever change?

18 A No.

19 Q You have to --

20 A Oh.

21 Q -- when you shake your head, the --

22 A Oh, okay. No.

23 Q -- the system won't pick up the speech.

24 Mr. Hipple, I'm going to show you an exhibit.
25 It's Exhibit 37 at 453. I will get it for you. It's

Mr. Berghof - Direct

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1 exhibit book one. Do you have book one? Yes, you do.

2 Let me help you with that.

3 A Okay.

4 Q Mr. Hipple -- Mr. Berghof --

5 MR. HIPPLE: 37?

6 BY MR. BERKOWITZ:

7 Q -- I'm going to refer you to page Hipple 453 and ask
8 you to read that document.

9 MR. HIPPLE: Hold on a minute, please? Hold
10 on one minute till I get there.

11 THE WITNESS: It's a confidentiality
12 agreement.

13 MR. HIPPLE: Hold on a moment.

14 THE COURT: What document -- does he know what
15 exhibit number?

16 MR. HIPPLE: I need the --

17 MR. BERKOWITZ: It's -- I'm sorry?

18 THE COURT: What exhibit?

19 MR. BERKOWITZ: It's Exhibit 37 --

20 MR. HIPPLE: Right.

21 MR. BERKOWITZ: -- page -- I think it was 459.

22 Could you tell us the page number, sir, from the bottom
23 right?

24 THE WITNESS: 453.

25 MR. BERKOWITZ: 453.

Mr. Berghof - Direct

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1 MR. HIPPLE: They're out of order again, okay?
2 Hold on one moment. I object, Your Honor.

3 THE COURT: What ground?

4 MR. HIPPLE: On the grounds that this witness
5 has no idea of this documentation.

6 THE COURT: Well, let's ask -- let's see what
7 he knows and then we'll -- you can object again if he
8 says he doesn't know anything about it.

9 BY MR. BERKOWITZ:

10 Q Have you ever seen this document before?

11 A No, I have not.

12 Q Okay. And do you know who Mr. Szafara is?

13 A Yeah, Steven Szafara, yes.

14 Q And who is he?

15 A He's the owner of the company I work for.

16 Q Okay. All right. So you -- you don't recall ever
17 seeing this?

18 A No.

19 Q Okay. I'd like you -- let's turn to Exhibit 21 in
20 that book that you have, and if you could look on the
21 bottom right of the page in bold numbers, there are
22 numbers, and I'd like you to look at page 72.

23 A Okay. I got it.

24 Q And I would represent to you that these are
25 documents that your company produced pursuant to a

Mr. Berghof - Direct

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1 subpoena.

2 A Okay.

3 Q And can you tell us what this document is?

4 A It's an invoice that we sent to SCIX for packaging
5 that we did.

6 Q Okay. And the date of this invoice is 3-31-2009?

7 A Yes.

8 Q Okay. And if you look under the line ordered by, it
9 looks, "verbal, Brian Hipple"?

10 A Yes. Yes.

11 Q Okay. And -- and that would be sometimes how he
12 ordered things?

13 A Yes.

14 Q Okay. Now, the Steel Seal product --

15 MR. HIPPLE: I object, Your Honor. He -- he
16 wasn't at -- at the company in 2009.

17 THE COURT: All right. Hold --

18 MR. HIPPLE: He's verifying a document that he
19 didn't even work for the company back in --

20 THE COURT: And your question is what, Mr.
21 Berkowitz? I'm sorry.

22 MR. BERKOWITZ: All I asked him, it says
23 "verbal, Brian Hipple." I'm asking him to look at the
24 order --

25 MR. HIPPLE: And it's a document he -- he

Mr. Berghof - Direct

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1 didn't even work for the company at the point.

2 THE COURT: All right. Wait a minute, hold
3 on. Let him finish. Go ahead.

4 MR. BERKOWITZ: I believe Mr. Berghof
5 testified that he has been working at the company since
6 at least 2001.

7 THE WITNESS: Yes.

8 THE COURT: All right. Overrule the
9 objection.

10 BY MR. BERKOWITZ:

11 Q If you see in the first line of the invoice, it's
12 got 9-26. Do you see that?

13 A Yes.

14 Q And would that be the number of cases?

15 A Yes, it is.

16 Q Okay. And then you see a couple blocks over --
17 well, the first block over, Steel Seal, 16?

18 A Yes.

19 Q Does that mean 16 ounce?

20 A That's a 16 ounce product, yes.

21 Q And slash case?

22 A Case, yes.

23 Q Okay. So when we look at this, it appears to me
24 that there are 12 bottles per case of 16 ounce Steel
25 Seal?

Mr. Berghof - Direct

84

1 A Yes.

2 Q Okay. And you extend the price out?

3 A Correct.

4 Q So if we could do the quick math, it says \$18 per
5 unit. That would be the per case price?

6 A Yes.

7 Q So if I can do the math in my head, and I still -- I
8 think I can still do this one -- it's \$1.50 a bottle?
9 I'm sorry, I didn't mean to put you on the spot. That's
10 the --

11 A Yeah. I don't know offhand without a calculator.

12 Q Okay. I am --

13 A Sounds close.

14 Q Okay.

15 A Yeah.

16 Q And I'd like you now to turn to -- hopefully it is
17 the next page -- 85 on the bottom, same exhibit, Number
18 21.

19 A Okay.

20 Q And would it be correct, this is an invoice dated 9-
21 30-2009?

22 A Yes.

23 Q Okay. And again an SCIX order?

24 A Yes.

25 Q Okay. And do you see under the ordered by, it's got

Mr. Berghof - Direct

85

1 a 0909?

2 A Yes.

3 MR. HIPPLE: I'm sorry. I'm missing that part
4 you're talking about.

5 MR. BERKOWITZ: It's on Exhibit 85 --

6 MR. HIPPLE: Right.

7 MR. BERKOWITZ: -- under the address of Steel
8 Seal -- I'm sorry --

9 MR. HIPPLE: Oh, 0909, I got it. Go ahead.

10 MR. BERKOWITZ: -- SCIX, LLC, 0909.

11 MR. HIPPLE: Right.

12 BY MR. BERKOWITZ:

13 Q Now, if you could just hold this page for a second
14 and go to Exhibit 22, page 86.

15 MR. HIPPLE: All right. Wait a minute.

16 BY MR. BERKOWITZ:

17 Q Exhibit 22, page 86 on the bottom right.

18 A Okay.

19 Q And do you see that document?

20 A Yes.

21 Q And I'd like you if you -- it looks like it's a --
22 it says a fax cover sheet?

23 A Right.

24 Q It's from Brian Hipple to you?

25 A Yes.

Mr. Berghof - Direct

86

1 Q Dated 9-11-2009?

2 A Okay.

3 Q And it's a Steel Seal order? Do you see that?

4 A Yes.

5 Q And our PO is 0909?

6 A Yes, I see that.

7 Q And is that a typical way that orders were placed?

8 A Not all the time.

9 Q Okay. But -- but it did happen frequently?

10 A Yeah, it happened, yes.

11 Q Okay. I could show you through and maybe we'll have
12 to go through a couple.

13 MR. BERKOWITZ: I don't want to go through
14 them all, Your Honor.

15 BY MR. BERKOWITZ:

16 Q Now, I'd like you to look at Exhibit 22 again. This
17 is Exhibit 22, page 68.

18 MR. HIPPLE: Okay. They're out of order.

19 Could you hold on for a minute, please?

20 MR. BERKOWITZ: Yes, they are out of order.

21 They came with numbers on them. I tried to put them in
22 sequential order by date.

23 MR. HIPPLE: Give me a moment.

24 MR. BERKOWITZ: It's -- in mine, it's the
25 second or third one in.

Mr. Berghof - Direct

87

1 MR. HIPPLE: 68 you said? I got a 67, 154,
2 57.

3 THE COURT: It is the third one.

4 MR. HIPPLE: Not on my -- not in my book, Your
5 Honor.

6 MR. BERKOWITZ: All the books should be the
7 same, but if yours -- there, you see it, sir?

8 THE WITNESS: Yes, I have it, yes.

9 MR. BERKOWITZ: Okay.

10 MR. HIPPLE: Hold on for a minute. I don't --
11 okay, 68 you said?

12 THE COURT: Right. Try the third document,
13 just go back and see if it's the third document.

14 MR. HIPPLE: Mr. Berkowitz, if you could find
15 it here for me?

16 MR. KLEIN: You skipped the third page.

17 MR. HIPPLE: That's 67.

18 THE COURT: Mr. Klein, could you help him,
19 please? See if you could find it.

20 BY MR. BERKOWITZ:

21 Q Okay. And --

22 MR. HIPPLE: Hold on, Mr. Berkowitz. I don't
23 have the page.

24 THE COURT: Pardon me?

25 MR. KLEIN: It doesn't appear to be in this.

Mr. Berghof - Direct

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1 THE COURT: Are you in 22?

2 MR. HIPPLE: Pardon me?

3 THE COURT: Are you in --

4 MR. KLEIN: No, he's not. He was in 21. I'm
5 sorry. You're in the wrong exhibit.

6 MR. HIPPLE: Okay.

7 MR. KLEIN: Page 67?

8 MR. BERKOWITZ: 68.

9 THE COURT: 68.

10 MR. BERKOWITZ: Exhibit 22, page --

11 MR. KLEIN: We have it. Thank you.

12 MR. HIPPLE: Okay. Thank you. Sorry about
13 that.

14 THE COURT: Go ahead.

15 BY MR. BERKOWITZ:

16 Q And do you see this -- this is dated 2-22-2010,
17 again to you from Brian Hipple?

18 A Yes.

19 Q And you look down and you see PO is 0310?

20 A Yes.

21 Q Okay. Now, I'd like you to go back to Exhibit 21,
22 page 67.

23 MR. BERKOWITZ: And there is a reason I'm
24 doing this, Your Honor.

25 THE COURT: I'm sure there is.

Mr. Berghof - Direct

89

1 MR. BERKOWITZ: Yes.

2 BY MR. BERKOWITZ:

3 Q Do you see page 67?

4 A Yes, I do.

5 Q Now, this is a new invoice? This is the Colonial
6 Chemical invoice?

7 A Yes.

8 Q Okay. And it looks like the format has changed, and
9 that's why I wanted to get to this exhibit.

10 A Yeah, we had switched software around that period.

11 Q Okay. And, again, it does what the -- the prior
12 invoice did?

13 A Yeah.

14 Q And if you see, this has the purchase order number,
15 0310?

16 A Yes.

17 Q Okay. And that's the document we just saw in the
18 other order?

19 A Correct.

20 Q So you just had a form -- a format switch with your
21 computer?

22 A Yes.

23 Q And I'd like you to look in the upper right-hand
24 corner of this document. And do you see that where it
25 says SCIX 001?

Mr. Berghof - Direct

90

1 A Yeah, it's a code they put in for a customer.

2 Q Okay. That's your customer number?

3 A Yes.

4 Q Okay. Unremarkable, they have a customer number on
5 it, correct?

6 A Yes.

7 Q Okay.

8 A Every customer has one.

9 Q Now, I'd like you to go to Exhibit 22, page 58.

10 A Okay.

11 Q And you see it's dated 10-22-2010?

12 A Yes.

13 MR. BERKOWITZ: And, Your Honor, I'd like to
14 point out to the Court that that is after the transfer
15 date of October 13th and that is why we are looking at
16 this document.

17 BY MR. BERKOWITZ:

18 Q And do you see the purchase order, number 1010?

19 A Yes.

20 Q Okay. Now, I'd like you now -- this is 58 -- and
21 this order format is the same as we had been looking at
22 before. It hadn't changed?

23 A No.

24 Q Now, let's go to Exhibit -- back to Exhibit 21, and
25 now I want you to look for page 57 --

Mr. Berghof - Direct

91

1 A Which page?

2 Q -- 57 in the bottom right --

3 A 57?

4 Q Yes, and this is Exhibit 21 again.

5 A Okay. Got it.

6 Q Do you see that? And that is an invoice dated 11 --
7 it looks like 28-2010?

8 MR. HIPPLE: 29?

9 THE WITNESS: 29, yes.

10 BY MR. BERKOWITZ:

11 Q I'm sorry.

12 A Yeah.

13 Q I have to get thicker glasses. And if you look at
14 the customer number, still SCIX 0001?

15 A Correct.

16 Q And the purchase order is 1010?

17 A Correct.

18 Q Right, that's the one we just looked at, and the
19 billing is to SCIX, LLC?

20 A Yes.

21 Q I assume this invoice was paid? Do you -- do you
22 have any reason --

23 A I presume -- I'm not into that, so --

24 Q -- do you have any reason to believe it wasn't paid?

25 A No.

Mr. Berghof - Direct

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1 Q Okay.

2 MR. HIPPLE: I object to it, Your Honor.

3 THE COURT: All right. Overruled.

4 MR. HIPPLE: Basically, we don't know how --

5 MR. BERKOWITZ: Object. There's no question
6 pending right now.

7 THE COURT: I overruled the objection.

8 BY MR. BERKOWITZ:

9 Q Mr. Berghof, I would like you to look at Exhibit 18.
10 Have you found that, sir? There's two pages in there.
11 I want to make sure we're on the first page.

12 MR. HIPPLE: Hold on. Wait till I get there,
13 please. Thanks.

14 THE COURT: Go ahead. Go ahead, Mr.
15 Berkowitz.

16 BY MR. BERKOWITZ:

17 Q Do you see that, Mr. Berghof?

18 A Yes.

19 Q And do you see at the top it's Complete Group, LLC?

20 A Yes.

21 Q Are you familiar with that company?

22 A No, I'm not.

23 Q Okay. And you see the date, December 26, 2010?

24 A Yes.

25 Q Okay. Now, it's addressed to you, "Dear Lou"?

Mr. Berghof - Direct

93

1 A Yes.

2 Q Okay. Do you recall having received this?

3 A I remember it.

4 Q Okay. And -- and if you look at the second sentence
5 towards the right of the page, it says, "Per our
6 conversation last week." So it looks like this confirms
7 a phone call that you had with Mr. Hipple?

8 A Yes.

9 Q Okay. It's telling you, "On October 13th I acquired
10 all the assets of SCIX."

11 Do you see that?

12 A Yes.

13 Q And he said, "including but not limited to all the
14 labels, caps, bottles, boxes, inserts, completed bottles
15 in Colonial's warehouse."

16 Do you see that?

17 A Yes.

18 Q And it says, "My company, Complete Group, is now the
19 successor in interest to the confidentiality agreement
20 executed between SCIX, LLC, and Colonial Chemical on
21 March 29 -- March 29, 1999."

22 Do you see that?

23 A Yes, I do.

24 Q And that's the confidentiality agreement that --

25 A Yeah, that --

Mr. Berghof - Direct

94

1 Q -- we looked at?

2 A -- that first page, yeah.

3 Q Okay. And it also says here, "I understand that
4 there has been a recent modification to the formula so I
5 need to receive a copy of the latest version."

6 Do you know what that's referring to?

7 A No.

8 Q Okay. So you don't know whether the formula for the
9 product changed?

10 A No, I do not, no.

11 Q Okay. So that wouldn't be part of what you do?

12 A No.

13 Q Okay. I mean, I was given a formula and I broke it
14 down to what was needed to do it.

15 Q Okay. So it looks like, even though he's telling
16 you that the business has changed, the company has
17 changed, did anything change with respect to the
18 ordering and production and delivery of Steel Seal?

19 A No.

20 Q If you hadn't received that letter, would you have
21 known that there had been any change?

22 A No.

23 Q Okay. I'd like you to turn to the next page in this
24 exhibit. This is again Exhibit 18, and there should be
25 a second page there. Do you see that?

Mr. Berghof - Direct

95

1 A Yes.

2 Q And you see at the top it says, SCIX, LLC?

3 A Yes.

4 Q Okay. And it looks like a very similar letter to
5 the prior one in terms of type and look? And do you see
6 it's addressed to you on December 26, 2010?

7 A Yes.

8 Q Now, did you deal with Brian a lot?

9 A Yeah, yeah. He would call periodically.

10 Q Okay. And do you remember seeing his signature or
11 handwriting?

12 A I never really paid attention to it.

13 Q Okay. No problem. And in this, he says to you, if
14 you look down the third line from the bottom.

15 "I will continue to place orders, pick up and
16 ship Steel Seal as I did formerly with SCIX, LLC."

17 Do you see that, where it says that? It's the
18 third line from the bottom of that paragraph.

19 A Okay. Yes.

20 Q Okay. And is that, in fact, what happened, business
21 continued?

22 A Yeah, it was business as usual.

23 Q Okay. Now, I'd like you to -- let's turn to Exhibit
24 21 and now I want you to go to page 56.

25 A Okay.

Mr. Berghof - Direct

96

1 Q And that is the invoice, the new invoice format that
2 we saw before?

3 A Yes.

4 Q And the date of this invoice is 12-31-2010?

5 A Yes.

6 Q And the customer number is still SCIX 001?

7 A Yes.

8 Q And the bill for this was sent to SCIX --

9 A Yes.

10 Q -- LLC? And do you have any reason to believe that
11 that bill wasn't paid?

12 A I wouldn't know.

13 Q Okay. I'd like you to turn to the next page, and I
14 just -- this is now 55?

15 A Yes.

16 Q Okay. And you see again this is an invoice dated
17 1-31-2011?

18 A Yes.

19 Q Customer, SCIX, 001?

20 A Yes.

21 Q Invoiced still to SCIX, LLC?

22 A Yes.

23 Q Okay. Now, I'd like you to turn to Exhibit 22, page
24 53, and, again, that is a fax cover sheet. It looks
25 like the ones we previously saw, correct?

Mr. Berghof - Direct

97

1 A Correct.

2 Q Okay. And it's from Brian Hipple to you? Do you
3 see that?

4 A Yes.

5 Q Okay. And it's dated February 23rd, 2011, and it's
6 got the purchase order number 0211, just like we saw
7 previously?

8 A Yes.

9 Q And do you see on the bottom it says -- he wants you
10 to bill to now a new company, Steel Seal Pro?

11 A Okay.

12 Q Do you see that?

13 A Yes.

14 Q Okay. Now, this order looks the same. Had anything
15 changed again that you would recognize in the ordering
16 and processing --

17 A No.

18 Q -- and delivering? Okay.

19 A No.

20 Q So you were just told to deliver -- to invoice
21 somebody else?

22 A Yeah, yeah. Our accounts receivable would have to
23 set it up to pay somebody else.

24 Q Okay. And you wouldn't really care if that's not
25 your department?

Mr. Berghof - Direct

98

1 A No, no, that wasn't my realm, so --

2 Q Okay. Now, I'd like you to go to Exhibit 21, page
3 54, and do you see at the top of that page this is an
4 invoice dated 2-28-2011 --

5 A Yes.

6 Q -- correct? And the customer number is still SCIX
7 001?

8 A Yes.

9 Q And now this is a bill to Steel Seal Pro?

10 A Yes.

11 Q So it looks like the people in the billing office
12 got the memo?

13 A Yes.

14 Q Okay. Now, I'd like you to go to on Exhibit 22, and
15 I'd like you to look at page 45.

16 MR. HIPPLE: Hold on.

17 MR. BERKOWITZ: It's Exhibit 22.

18 THE WITNESS: Okay.

19 BY MR. BERKOWITZ:

20 Q And do you see on this, again, it looks like the
21 same as the other ones we've looked at?

22 A Yes.

23 Q Okay. And it's got a P.O. number 0611?

24 A Yes.

25 Q And if you look at the date, 06 looks like the month

Mr. Berghof - Direct

99

1 and '11 is the year?

2 A Yeah.

3 Q Now, this one says under re, new Steel Seal U.K.
4 order?

5 A Yes.

6 Q Okay. And I'm going to represent to you that that's
7 the first time in any of these documents I've seen a
8 U.K. order. Do you know what that means?

9 A Yeah. The product -- a different label and then
10 Brian had a container come to our facility and pick it
11 up and it got shipped overseas.

12 Q Okay. So this is in 2011 then, there's a new label
13 that's put on?

14 A Yeah. It was a different label than what we
15 previously used.

16 Q Okay. And I'd like you to -- do you see 45, do you
17 see that on the bottom of the -- I want you to turn
18 forward to page 33.

19 MR. HIPPLE: I'm sorry.

20 MR. BERKOWITZ: It should be in the same
21 exhibit --

22 MR. HIPPLE: Where?

23 MR. BERKOWITZ: -- number 22.

24 MR. HIPPLE: 22?

25 THE WITNESS: 33?

Mr. Berghof - Direct

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1 MR. BERKOWITZ: Exhibit 22, page 33.

2 THE WITNESS: Okay. Yes.

3 MR. HIPPLE: Hold on, hold on. 33, right.

4 BY MR. BERKOWITZ:

5 Q And do you see that?

6 A Yes.

7 Q Okay. And is that -- that, to me -- is that the
8 U.K. label? And the reason I ask, if you look under, it
9 says save hundreds of pounds.

10 A Yes.

11 Q It has the pound symbol instead of the dollar?

12 A Yes.

13 Q Okay. So would that be the new label?

14 A Yes.

15 Q Okay. And you see this is dated 12-9-2011?

16 A Yes.

17 Q Okay. Do those labels now look familiar to you?

18 A Yes, they do.

19 Q Okay. And those are the labels now they put on the
20 U.K. product?

21 A Yes.

22 Q Now, is -- is Steel Seal still being ordered?

23 A Yes.

24 Q Okay. And do you know whether anybody else produces
25 Steel Seal?

Mr. Berghof - Direct

101

1 A I don't know. I don't recall.

2 Q Okay. Now, let's go to Exhibit 22, page 39, and it
3 may be back.

4 MR. HIPPLE: Okay. Hold on.

5 MR. BERKOWITZ: Yes, it's back after page 45.

6 MR. HIPPLE: Hold on. It's out of order.

7 THE WITNESS: Okay.

8 MR. HIPPLE: I don't have it yet. Hold on,
9 Mr. Berkowitz.

10 THE COURT: 39?

11 MR. BERKOWITZ: 39, yes, Your Honor.

12 MR. HIPPLE: Still don't have it. Okay. I
13 have it.

14 BY MR. BERKOWITZ:

15 Q This is -- again, this is the same kind of fax we've
16 seen all along?

17 A Yes.

18 Q Okay. And, again, from Brian to you, and this one
19 is dated October 18, 2011. Do you see that?

20 A Yes.

21 Q Now, it's got a P.O. number just like we've seen on
22 the other ones, right --

23 A Yes.

24 Q -- 1011?

25 A Yes.

Mr. Berghof - Direct

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1 Q Now, let's look at this one. This is a request for
2 an order of 8,000 of the U.S. Steel Seal?

3 A Yes.

4 Q So when the new labeling came in, you had to now
5 distinguish between whether you labeled for the U.S. or
6 the U.K.?

7 A Yes.

8 Q Okay. And if we -- if we were to look at Exhibit
9 21 --

10 MR. BERKOWITZ: And I don't want to belabor
11 this point, Your Honor.

12 BY MR. BERKOWITZ:

13 Q -- Exhibit 21, page 38, and, again, these are --
14 there they are. Okay. Let's look at -- this is an
15 invoice dated 11-10-2011?

16 A Yes.

17 Q And the customer is still SCIX, 001?

18 A Yes.

19 Q And the bill to is Steel Seal Pro?

20 A Yes.

21 Q And the purchase order number is 1011, the same we
22 saw in the last fax?

23 A Yes.

24 Q And if you look under -- it says in the description,
25 this now shows U.S. Steel Seal.

Mr. Berghof - Direct

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1 A Correct.

2 Q So that's how you would distinguish between whether
3 they were requesting U.K. Steel Seal or U.S. Steels --

4 A Correct.

5 Q -- I'm sorry -- U.S. Steel Seal? Now, are we in
6 Exhibit 21? If we could just go to page 30 which
7 hopefully is the next --

8 A Yes.

9 Q -- page.

10 MR. HIPPLE: Back to 20?

11 MR. BERKOWITZ: Exhibit 21.

12 MR. HIPPLE: Page 30? Hold on. Okay.

13 BY MR. BERKOWITZ:

14 Q Okay. And you see that, that's dated 2-14-2012?

15 A Yes.

16 Q Okay. And, again, this is a Steel Seal Pro invoice?

17 A Yes.

18 Q And it still identifies the customer as SCIX, 001?

19 A Yes.

20 Q And you see there's no designation of U.K. or U.S.?

21 A Correct.

22 Q Do you know why that would be?

23 A No, I don't.

24 Q Okay. Do you know whether the price is different
25 for 16 ounces in the U.K. or 16 ounces in the U.S.?

Mr. Berghof - Direct

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1 A I don't know.

2 Q Okay. That wouldn't be something you would be
3 involved in?

4 A No.

5 Q Okay. Thank you. I'd like you to look at Exhibit
6 22. By the way, we're doing very well. I'll have you
7 finished soon, sir, so you can go back and do what you
8 like to do. And I'd like you to go to page 28.

9 A Okay.

10 Q Do you see that? And the reason I'm bringing this
11 to your attention -- this looks different than the other
12 faxes that we've seen to order, but it looks like this
13 one's an email to you dated February 28th, 2012?

14 A Yes.

15 Q Okay. And you see he said, "I'd like to get ready
16 to do another run for the Steel Seal for the U.S."

17 A Correct.

18 Q Again, and he has to tell you that so you can get
19 the right label on the product?

20 A Correct, yes.

21 Q Okay. Thank you. Okay. Now, I'd like you to go to
22 Exhibit 21 and I want you to look for -- I have the
23 wrong exhibit. I'm looking at 22, can't find it. 21,
24 page 12.

25 MR. HIPPLE: Hold on.

Mr. Berghof - Direct

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1 THE WITNESS: Okay.

2 BY MR. BERKOWITZ:

3 Q Again, this is another invoice from Steel Seal?

4 A Yes.

5 Q And this one is dated 10-11-2012?

6 A Yes.

7 Q And you see the customer is still SCIX?

8 A Yes.

9 Q And were you aware --

10 MR. HIPPLE: Hold on, hold on. Customer is
11 Steel Seal, LLC. Number 12 you said?

12 MR. BERKOWITZ: Page 12.

13 BY MR. BERKOWITZ:

14 Q Are you aware of the fact that Brian Hipple passed
15 away on September 30th, 2012?

16 A I don't recall the exact date.

17 Q Okay. Okay. Now, if you look at this bill to, do
18 you see that?

19 MR. HIPPLE: Your Honor, I object -- object to
20 the name -- the name on this is not -- he identified the
21 name incorrectly.

22 THE COURT: All right. Overrule the
23 objection.

24 BY MR. BERKOWITZ:

25 Q Do you see this is an invoice now to Steel Seal,

Mr. Berghof - Direct

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1 LLC?

2 A Correct.

3 Q Okay. So it's got a different name. And now it
4 says Attention: Clement Hipple? Do you see that?

5 A Yes.

6 Q Okay. And I'm going to represent to you that's the
7 first invoice I saw for Steel Seal.

8 A Okay.

9 Q Now, I'd like you to go to Exhibit 22, page 108.

10 A Okay.

11 MR. HIPPLE: Hold on. 108, 22?

12 MR. BERKOWITZ: 22, 108.

13 MR. HIPPLE: Okay. I have it.

14 BY MR. BERKOWITZ:

15 Q Do you see that in the subject -- now, that's an
16 email to you from Clement Hipple?

17 A Yes.

18 Q And do you recall receiving emails from Mr. Hipple?

19 A Yes.

20 Q Okay. And the subject is help?

21 A Yes.

22 Q And you see the date of that is October 22, 2012?

23 A Yes.

24 Q Do you recall getting this email? Just another
25 email?

Mr. Berghof - Direct

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1 A It's just another email with -- with an inventory to
2 me, so --

3 Q Okay. And he's -- he's, again, distinguishing
4 between U.S. Steel Seal and U.K. Steel Seal?

5 A Correct.

6 Q Okay. Now, I'd like you to go to Exhibit 21 and
7 we're going to look for page 11 which should be near the
8 back.

9 THE COURT: What number?

10 MR. BERKOWITZ: Page 11 --

11 THE COURT: Thank you.

12 MR. BERKOWITZ: -- Exhibit 21.

13 THE COURT: Right. Thanks.

14 THE WITNESS: Okay.

15 BY MR. BERKOWITZ:

16 Q Now, do you see the --

17 MR. HIPPLE: I'm not there, I'm not there.

18 Hold on. Go ahead.

19 BY MR. BERKOWITZ:

20 Q Do you see there, the invoice date, 10-31-2012?

21 A Yes.

22 Q Okay. You see the customer number is still SCIX,
23 001?

24 A Yes.

25 Q And you see now it's billed to BBB Management Group,

Mr. Berghof - Cross

108

1 || LLC?

2 || A Yes.

3 Q Attention: Clement Hipple?

4 A Yes.

5 Q Okay. Now, again, is that something you were aware
6 of or is that something just the office would become
7 aware of?

8 A I don't recall being -- seeing anything about it.

9 Q Okay.

10 A Okay. Knowing me, if I did get something, it would
11 go right to the office.

12 Q Okay.

13 || A Okay.

14 Q Because they would have to change the --

15 A Yeah, they have to change everything in the system.

16 Q Okay. Thank you, Mr. Berghof. I have no other
17 questions.

CROSS-EXAMINATION

19 BY MR. HIPPLE:

20 Q Good morning, Lou.

21 A Good morning.

22 Q How are you?

23 A Good. How do you do?

24 Q Okay. I just want -- I have just three questions
25 for you basically, okay? What was the first time you

1 saw me?

2 A After Brian had passed away.

3 Q Right. Have -- have you heard from me or had I
4 called you or had you ever seen me prior to that?

5 A I don't recall seeing you.

6 Q Okay. So you had --

7 THE COURT: Mr. Hipple, move that microphone a
8 little closer to you. Thank you.

9 BY MR. HIPPLE:

10 Q So you had done no -- no business with me at all,
11 correct --

12 A Not that I recall, no.

13 Q -- until after Brian passed away, right? And is it
14 possible that maybe your company, because the product is
15 the same name, Steel Seal, that they may keep the same
16 customer number? Is that a possibility?

17 A It's the same customer number. They just edited the
18 information for that customer number.

19 Q Right. And as far as the billing is concerned,
20 sometimes it takes a little bit of time maybe for your
21 company to get the name change?

22 A Yes, it's --

23 Q Okay.

24 A -- yes.

25 Q Okay. So as of now, that customer number has been

Mr. Berghof - Cross

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1 since 1999, 001, more than likely?

2 A Oh, I'm sure, yeah.

3 Q Yeah. Right. No matter who put the order in the
4 Steel Seal, correct?

5 A Correct.

6 Q Okay. All right. And, again, you can verify that
7 you never heard from me at any point in time, that you
8 dealt directly with Brian --

9 A Correct.

10 Q -- until his death, is that correct?

11 A Yes.

12 Q Okay. That's all.

13 A All right.

14 MR. BERKOWITZ: No questions, Your Honor.

15 THE COURT: Okay. Thank you. You're excused,
16 sir.

17 THE WITNESS: Okay. Thank you.

18 (Witness excused.)

19 THE COURT: Let's take a break, okay, a ten-
20 minute break. I'll see you in ten minutes.

21 (Recess taken, 10:57 a.m. to 11:07 a.m.)

22 THE COURT: Please be seated. Your next
23 witness, Mr. Berkowitz.

24 MR. BERKOWITZ: Your Honor, I'm going to call
25 Melissa Moreno.

1 THE COURT: Okay.

2 MR. BERKOWITZ: And, Ms. Moreno, if you could
3 just take a seat right up there. Your Honor, for
4 purposes of housekeeping, this is my last witness, and
5 I'd like to, at the conclusion of her testimony, move
6 all of the exhibits into evidence and then maybe reserve
7 argument till tomorrow if there is any on any of the
8 documents.

9 There's a lot of pages. And there are also
10 certain documents that -- I'm not sure -- may not have
11 been put in front of the Court, but pertain to Mr.
12 Shavel --

13 THE COURT: Okay.

14 MR. BERKOWITZ: -- complaints and the like.

15 THE COURT: All right.

16 MR. BERKOWITZ: They are part of the exhibits
17 that I would like to include in evidence.

18 THE COURT: Right. Well, we'll talk -- let's
19 talk after this witness has testified -- we'll talk
20 about scheduling.

21 COURTROOM DEPUTY: Raise your right hand.

22 MELISSA MORENO, Plaintiff's Witness, Sworn.

23 COURTROOM DEPUTY: Please spell your last name
24 for the record, please.

25 THE WITNESS: Moreno, M-O-R-E-N-O.

Ms. Moreno - Direct

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1 COURTROOM DEPUTY: Thank you.

2 DIRECT EXAMINATION

3 BY MR. BERKOWITZ:

4 Q And, Ms. Moreno, you know you're a defendant in this
5 case, correct?

6 A As the administratrix.

7 Q Well, you're -- yes, you are the party that was
8 added by the Court. You're familiar with that?

9 A Yes.

10 Q Okay. And you had two children with Brian Hipple?

11 A Correct.

12 Q And -- but you were not married to him?

13 A Correct.

14 Q Okay. And you and Brian and the children lived
15 together at 3761 Cold Spring Creamery Road in
16 Doylestown?

17 A Correct.

18 Q Okay. And you lived there with Brian until
19 September, 2012?

20 A Yes. Yes.

21 Q Okay. Now, Brian ran the Steel Seal business, is
22 that how you knew of it, how you referred to the
23 business as the Steel Seal business?

24 A Yes.

25 Q Okay. And when -- when did your relationship with

1 Brian Hipple begin?

2 A I met him in college, so I -- I knew him for quite
3 some time, but our partnership -- I moved in with him in
4 2004. So we were dating I guess starting in 2003.

5 Q Okay. And during that entire time, was it your
6 understanding that he was running the Steel Seal
7 business?

8 A Correct.

9 Q Okay. Now, the mortgage for the Cold Spring
10 Creamery Road property, the primary mortgage was with
11 Sovereign Bank?

12 A I believe so, yes.

13 Q And there was a second mortgage with Quaint Oak
14 Bank?

15 A Correct.

16 Q Okay. Now, you currently reside at 4250 Old Oak
17 Road, Doylestown?

18 A 4520 Old Oak Road.

19 Q I'm sorry, I reversed the numbers. Now, you bought
20 that house, I believe, just before your deposition, you
21 bought it on Friday, April 19th, 2013?

22 A That sounds correct, yes.

23 Q Okay. And you paid for the house because you had
24 received a million dollars in proceeds from a life
25 insurance policy with Prudential?

1 A Correct.

2 Q Okay. Did you, by the way, ever live at 278 Paine
3 Street?

4 A No.

5 Q Okay. Thank you. Now, you're familiar with SCIX
6 and the Steel Seal product?

7 A Yes.

8 Q Okay. And you had heard the name SCIX?

9 A Yes.

10 Q Okay. Did you get involved in the corporate names
11 and the like? Do you have familiarity with that?

12 A No.

13 Q Okay. Are you familiar with Brian's signature?

14 A Yes.

15 Q Okay. I'd like you to look at in Volume I which
16 should be in front of you Exhibit 18. Well, let's start
17 with Exhibit 18, the first page. Do you see that? It's
18 a Complete Group letter. Do you recognize the signature
19 there?

20 A Yeah, it looks like it's Clem's -- Clement's.

21 Q Clement Hipple, the defendant in the case?

22 A Right.

23 Q Now, let's look at the next page. Do you see that,
24 under SCIX?

25 A Hm-hmm.

1 Q Do you recognize that signature?

2 A That looks like Brian's signature.

3 Q Okay. Thank you. Now, I'd like you to go to
4 Exhibit 22, the same book, and let me help you, because
5 as I've heard, the pages are out of order.

6 MR. HIPPLE: What page?

7 MR. BERKOWITZ: Page 33 and 34.

8 BY MR. BERKOWITZ:

9 Q I'd like you to look first at Exhibit 22, page 33.
10 Do you see the signature there?

11 A Yes.

12 Q And do you recognize that signature?

13 A It looks like Brian's.

14 Q And the date of the document?

15 A 12-9-11.

16 Q Okay. Now, let's look at page 34. Do you see that
17 document?

18 A Yes.

19 Q Do you see the signature there?

20 A Yes.

21 Q Do you recognize that signature?

22 A It looks like Brian's as well.

23 Q Okay. And the date?

24 A 12-9-11.

25 Q Okay. Thank you. Now, let's look at page 34. Do

1 you see that document?

2 A Yes.

3 Q Do you see the signature there?

4 A Yes.

5 Q Do you recognize that signature?

6 A It looks like Brian's as well.

7 Q Okay. And the date?

8 A 12-9-11.

9 Q Okay. Now, you received money from SCIX, isn't that
10 correct?

11 A Yes.

12 Q Okay. And I'm going to show you some checks. We
13 had looked at these before I think at your deposition?

14 A Right.

15 Q I'm going to start with Exhibit 112 and I'm going to
16 get that for you.

17 A Okay. Thank you. Can I close this one?

18 Q You can close it. We'll probably come back to it a
19 little later. If we can see which one is which. Okay.
20 This is Exhibit 112. And are you familiar with -- it
21 isn't a document, it's a check from Wachovia Bank. It
22 says SCIX, LLC, on it?

23 A Yes.

24 Q Okay. And does that appear to be Brian Hipple's
25 signature?

1 A Yes. It looks like it's the signature stamp.

2 Q The signature stamp, okay. And it looks like the
3 check was endorsed. Does that appear to be your
4 endorsement?

5 A Yes.

6 Q Okay. And this is a \$2,000 check you got on October
7 1st, 2009?

8 A Correct.

9 Q Okay. Now, let's --

10 MR. BERKOWITZ: And at the top of these pages,
11 Your Honor, by the way, there are check numbers and
12 there are page numbers.

13 BY MR. BERKOWITZ:

14 Q This -- the first check is 7880, and then there's
15 7881. And this appears to be the same date. Do you see
16 that?

17 A Yes.

18 Q And this is now \$2,500?

19 A Correct.

20 Q So on that date, you got \$4,500 from SCIX?

21 A Correct.

22 Q All right. And let's go to the next page, check
23 7916. Do you see that, 11-2-2009?

24 A Correct.

25 Q Okay. And that's another check for \$2,500 from

1 SCIX?

2 A Correct.

3 Q Okay. And let's go to check -- the next page --
4 7917, and to save some time, Ms. Moreno --

5 A Hm-hmm.

6 Q -- I would just ask if you look through these.
7 These appear to be all checks made payable to you at
8 different dates in different amounts, and I want you to
9 just go through up to check number 8129, which on the
10 top of the page, it says page 273 of 550. Do you see
11 that?

12 MR. HIPPLE: What was that number again, sir?

13 MR. BERKOWITZ: It's check 8129.

14 MR. HIPPLE: No, the top of the page.

15 MR. BERKOWITZ: Page 273.

16 BY MR. BERKOWITZ:

17 Q And you see that check payable to you --

18 A Yes.

19 Q -- for \$500?

20 A Correct.

21 Q And you see in the memo --

22 A Yes.

23 Q -- it says mom's car repair.

24 A Right.

25 Q Whose car was that?

Ms. Moreno - Direct

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1 A That probably refers to my mother's car.

2 Q Okay. So that was a check for the repair of your
3 mother's car?

4 MR. HIPPLE: Objection, Your Honor.

5 THE COURT: On what ground?

6 MR. HIPPLE: On the grounds that she don't
7 know for sure that that statement is correct.

8 THE COURT: All right. Overruled.

9 BY MR. BERKOWITZ:

10 Q All right. And, again, I don't want to belabor
11 this, but if you would just look through and see if
12 there are -- these are all checks in Exhibit 112 payable
13 to you. They all appear to be except until we get to
14 8280 to be typewritten.

15 MR. HIPPLE: What number?

16 BY MR. BERKOWITZ:

17 Q And then on page 433 of 550, it's check number 8280.

18 A Correct.

19 Q Do you see that? That's a check that looks like
20 it's handwritten.

21 A Correct.

22 Q Do you recognize the handwriting?

23 A It looks to be Brian's.

24 Q Okay. And that's for \$3,000?

25 A Right.

Ms. Moreno - Direct

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1 Q Okay. Ms. Moreno, I'm going to ask you to look, if
2 you could, in Volume I, Exhibit 24 --

3 MR. HIPPLE: Your Honor, could he slow down a
4 little bit because I'm not --

5 THE COURT: All right. We'll make sure he
6 doesn't start until you get to the exhibit. So we're
7 Volume I, Exhibit 24.

8 MR. BERKOWITZ: Exhibit 24.

9 MR. HIPPLE: 34?

10 THE COURT: 24.

11 MR. BERKOWITZ: 24.

12 MR. HIPPLE: I'd like to look at it before he
13 asks a question.

14 THE COURT: Okay.

15 MR. BERKOWITZ: Do you have it, Mr. Hipple?

16 MR. HIPPLE: Yes, go ahead.

17 BY MR. BERKOWITZ:

18 Q Do you recognize the handwriting?

19 A It looks like Brian's handwriting.

20 Q Sorry.

21 A That's okay.

22 Q Okay. Have you had a chance to get through 112?
23 There's another handwritten check. Do you see that,
24 8281?

25 A Correct.

1 Q And --

2 MR. HIPPLE: Wait, I -- I put that away. Hold
3 on.

4 THE COURT: What number do you -- what number
5 do you --

6 MR. HIPPLE: What exhibit?

7 MR. BERKOWITZ: It's check number -- this is
8 Exhibit 112.

9 THE COURT: We're back -- okay.

10 MR. BERKOWITZ: Yes, this is the checks.

11 MR. HIPPLE: Hold on.

12 MR. BERKOWITZ: I just want to get through
13 these because there are a couple of handwritten --

14 THE COURT: Yes. Which number?

15 MR. BERKOWITZ: It's check number 8281. It's
16 almost at Exhibit 113. It's --

17 MR. HIPPLE: Not there yet. Okay. Exhibit
18 112?

19 MR. BERKOWITZ: Eight --

20 MR. HIPPLE: No, exhibit number?

21 MR. BERKOWITZ: Exhibit 112.

22 MR. HIPPLE: Hold on. Bear with me.

23 THE COURT: We were just on it a moment ago.

24 MR. HIPPLE: I know. What booklet is it?

25 MR. BERKOWITZ: It's book four I believe.

Ms. Moreno - Direct

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1 Yes, it is.

2 THE COURT: Right. And your check number
3 again, 82 --

4 MR. BERKOWITZ: 8281.

5 THE COURT: -- 81.

6 BY MR. BERKOWITZ:

7 Q Again, do you recognize the handwriting?

8 MR. HIPPLE: Hold on a second. What's the
9 number at the top?

10 MR. BERKOWITZ: The page is 453 of 550.

11 MR. HIPPLE: 453.

12 THE COURT: I'm not sure I have that one.

13 MR. HIPPLE: I'm out of order. I don't have
14 it either.

15 MR. BERKOWITZ: Do you have it, Ms. Moreno?

16 THE WITNESS: Yes.

17 THE COURT: 453?

18 MR. HIPPLE: I don't have it. I see that.

19 Number 453. I'm sorry.

20 THE COURT: Yes. It's 475 --

21 MR. BERKOWITZ: It's check number 8281.

22 THE COURT: All right. I have it.

23 MR. HIPPLE: Hold on. No, I do not have a
24 copy. I'm sorry. I need a copy.

25 THE COURT: Well, wait -- wait -- Exhibit 112.

Ms. Moreno - Direct

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1 MR. BERKOWITZ: It's Exhibit 112.

2 MR. HIPPLE: Yeah, I'm right there.

3 MR. BERKOWITZ: Page 453 of 550 and it's check
4 number 8281.

5 THE COURT: I have it. Thanks.

6 (Pause in proceedings.)

7 THE COURT: Make sure you're in Exhibit 112
8 because the preceding at 111 is also checks. Make sure
9 you're in 112.

10 MR. HIPPLE: I am, Your Honor.

11 THE COURT: Okay.

12 (Pause in proceedings.)

13 MR. BERKOWITZ: There we go, right there.

14 MR. HIPPLE: All right.

15 MR. BERKOWITZ: See that.

16 MR. HIPPLE: Yes.

17 BY MR. BERKOWITZ:

18 Q Ms. Moreno, check number 8281, do you recognize the
19 handwriting?

20 A Yes.

21 Q And whose handwriting is that?

22 A It appears to be Brian's.

23 Q Okay. And the signature also appears to be Brian's?

24 A Yes.

25 Q Okay. And the rest of the checks appear to be all

Ms. Moreno - Direct

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1 computer generated, payable to you?

2 A Correct.

3 Q And you received -- you regularly received money
4 from SCIX --

5 A Correct.

6 Q -- correct?

7 A Yes.

8 Q These were household expenses and things you had to
9 live on?

10 A Correct.

11 Q Okay. Now, I'd like you to turn to Exhibit 115?

12 A In the same book?

13 Q Same book. And do you see that?

14 MR. HIPPLE: Hold on. I'm there.

15 THE WITNESS: Do I see what? I'm sorry?

16 MR. BERKOWITZ: You have to wait.

17 THE WITNESS: Okay.

18 MR. HIPPLE: I'm there.

19 BY MR. BERKOWITZ:

20 Q Do you see those -- that's a check to Sovereign Bank
21 for \$2,980.41?

22 A Yes.

23 Q And you told us before that Sovereign Bank held the
24 mortgage?

25 A Correct.

Ms. Moreno - Direct

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1 Q And there's a loan number. Do you see that's
2 handwritten in?

3 A Yes.

4 Q Does that appear to be Brian's writing?

5 A It does appear to be his writing.

6 Q And does that look like the mortgage payment for
7 your house?

8 A I would assume that it is.

9 Q Okay. And I'm going to represent to you that all of
10 the checks in this exhibit are payable to Sovereign Bank
11 and they are in that amount or an amount -- a couple
12 dollars more -- it looks like a late fee might have been
13 added in. But if you'd like to satisfy yourself, I'd
14 like you to do that, but that all the checks in Exhibit
15 115 are to Sovereign Bank?

16 A Yes.

17 Q Okay. Now, let's go to Exhibit 116, and that again
18 is a check -- this is check number 7889 from SCIX, LLC,
19 to Quaint Oak Bank, correct?

20 A Correct.

21 Q And you told us before that they had the second
22 mortgage on the property where you lived with Brian?

23 A Correct.

24 Q Okay. And I'd like you to just go through and
25 verify that these are all checks to Quaint Oak Bank.

Ms. Moreno - Direct

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1 The first one is dated 10-14-09 and the last one is
2 dated 9-9-2010.

3 A Yes.

4 Q Okay. And did -- first, let's go to 117 quickly.
5 Do you have that, 177, first page, check number 7894?

6 A Yes.

7 Q Do you see that to the U.S. Treasury?

8 A Yes.

9 Q And do you see a Social Security number at the
10 bottom?

11 A Yes.

12 Q And do you know whose Social Security number that
13 is?

14 A In context of the check, I would assume that it's
15 Brian's.

16 Q Okay.

17 MR. HIPPLE: Your Honor, I object to her
18 assuming.

19 THE COURT: All right. I overrule the
20 objection.

21 BY MR. BERKOWITZ:

22 Q And let's go to the next page, check 8087. Do you
23 see that, payable to the Pennsylvania Department of
24 Revenue?

25 A Yes.

Ms. Moreno - Direct

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1 Q And it's payment for Brian Hipple?

2 A Yes.

3 Q Okay. And if we go to check 8375, the next check,
4 to the U.S. Treasury, do you see that?

5 A Yes.

6 Q And you see on the bottom for Brian Hipple?

7 A Yes.

8 Q Okay. And the next one is the Department of Revenue
9 for Brian Hipple?

10 A Yes.

11 Q And the next -- the last check in this exhibit from
12 Wachovia Bank is payment for Brian Hipple to the United
13 States Treasury --

14 A Yes.

15 Q -- check number 8086?

16 A Yes.

17 Q Did you or Brian drive a Honda?

18 A I drove -- I drive a Honda, yes.

19 Q Okay. And do you recall whether payments for that
20 Honda were made from the company?

21 A They could have been made from him or from myself.

22 Q Okay. Do you know who the leasing company was? Was
23 it Martin Leasing?

24 A I don't recall.

25 Q Okay. Would it have been American Honda Finance?

1 A That sounds familiar, yes.

2 Q Okay. I'd like you to turn to Exhibit 119. Did
3 Brian drive a Honda?

4 A Not regularly, no.

5 Q Okay.

6 A I mean, he drove a Honda at times.

7 Q Your Honda?

8 A I'm not sure if -- honestly, I don't remember if it
9 was leased in my name or his name at the time.

10 Q Okay.

11 A I'm sorry.

12 Q All right. But that was the car you drove?

13 A Right, but I --

14 Q Okay. It wasn't a business car. It was for you to
15 use?

16 A Right.

17 Q Okay. So all these checks in Exhibit 119 are paid
18 to American Honda Finance Corp. or Honda Financial
19 Services? If you would just like to go through and --
20 and just satisfy yourself that that's what this exhibit
21 is?

22 A Yes.

23 Q Okay. Ms. Moreno, if we could go to Exhibit 122,
24 same book. Did Brian pay for a lot of things with
25 credit cards?

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1 MR. HIPPLE: Objection, Your Honor.

2 THE COURT: Overruled.

3 THE WITNESS: Yes, I would say.

4 BY MR. BERKOWITZ:

5 Q Okay. And if you see here, we have again checks to
6 credit card companies.

7 MR. BERKOWITZ: And this will, Your Honor, be
8 explained as we go along.

9 BY MR. BERKOWITZ:

10 Q Do you see that? Do you see the first one is to
11 Chase Card Member Services?

12 A Yes.

13 Q Okay. And if you go to check 8169, you see it says
14 Citi Cards? That's page 316 of 550.

15 A Yes.

16 Q I don't think we have any other different banks
17 here. I have many credit card banks and I can't keep
18 them straight either. I just want to -- if you just
19 want to go through and make sure these are all credit
20 card payments.

21 A Yes.

22 Q Now, I'd like you to turn to Exhibit 123 and I would
23 like you to look at check 8191.

24 A Yes.

25 Q And that's to the Buckingham Friends School?

1 A Yes.

2 Q Is that yes?

3 A Yes. I'm sorry.

4 Q Okay. And could you tell me what that was for?

5 A That's my son's school.

6 Q Okay.

7 A So --

8 Q So these are tuition payments?

9 A -- tuition, right, like a deposit to hold his space.

10 Q Okay. And if we go to the next page, check 8131, it
11 looks like another one?

12 A Right.

13 Q A small check? And let's go to page 8275, same
14 Exhibit 123, it says National American Miss and it's got
15 on the memo Madison Moreno? Is that your daughter?

16 A Yes. Sorry.

17 Q Okay. Now, at a certain point, did you stop
18 receiving money from SCIX?

19 A Yes.

20 Q And do you recall that you started then receiving
21 the same types of checks from a company called Steel
22 Seal Pro?

23 A Yes.

24 Q Okay. And did you understand why that was
25 happening?

1 A Yes.

2 Q Okay. What was your understanding?

3 A That Brian was -- like, that -- when he was running
4 the business and it was his company, it was SCIX, but
5 then everything changed when all of the legal stuff
6 started happening, and he was still working doing the
7 Steel Seal but it was under Steel Seal Pro or he was
8 doing it through Steel Seal Pro.

9 Q Okay. And did you get checks signed by Brian, the
10 same type of checks, just for -- with a different check
11 now?

12 MR. HIPPLE: Objection, Your Honor. What --
13 what type of -- what checks is he speaking of?

14 THE COURT: Overruled.

15 THE WITNESS: Yes.

16 BY MR. BERKOWITZ:

17 Q Okay. That didn't change?

18 A Correct.

19 Q Okay. Same types of payments?

20 A Right.

21 Q Okay. And --

22 A I mean, to me specifically you're saying?

23 Q Yes.

24 A Yeah.

25 Q Okay. And Brian still ran the business, though,

1 right, when the -- when the checks stopped coming from
2 SCIX and they started coming from Steel Seal Pro,
3 Brian's job didn't change?

4 A My understanding is he was no longer the owner, but
5 that he was still doing the daily work, yes.

6 Q Okay. So it was your understanding he -- he no
7 longer owned Steel Seal Pro?

8 A Right.

9 Q Who did you think owned Steel Seal Pro?

10 A At the time, I didn't know. I mean, it was after he
11 passed that we found out that that was --

12 Q Okay. And do you recall which bank Steel Seal Pro
13 was doing business with?

14 A Oh, there were a lot of banks. I believe that was
15 The First National.

16 Q The First National Bank of Newtown?

17 A Yes.

18 Q Okay. And, in fact, didn't you open an estate
19 account at that bank?

20 A Yes.

21 Q And if you look at Exhibit 40 in binder one, I'm
22 just going to represent to you that that's your estate
23 account that you opened with The First National Bank.

24 MR. HIPPLE: One moment.

25 THE WITNESS: Is that this book? Is that --

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1 MR. BERKOWITZ: Yes, it would be book one, tab
2 number 40. So that would be book two, tab number 40.

3 MR. HIPPLE: No, it's not book one. Hold on.
4 Is that tab 40?

5 MR. BERKOWITZ: 40.

6 BY MR. BERKOWITZ:

7 Q Do you see that? I'm sorry.

8 A Is that this?

9 Q That's the wrong -- I'm sorry.

10 A It's not this.

11 Q You're not familiar with the fact that when you have
12 a different color binder --

13 A It doesn't mean --

14 Q -- it's a whole new different thing. Let me take
15 that away.

16 A Okay.

17 Q This is Exhibit 40, and if you could just take a
18 look at that.

19 A Okay.

20 Q All right. And you're familiar with that?

21 A Yes.

22 Q Okay. And could you tell me what that is?

23 A A bank statement from the estate account.

24 Q Okay. And that's what a bank statement from The
25 First National Bank of Newtown looks like?

1 A Correct.

2 Q Okay. And it shows the activity that occurred
3 through the estate for payment of expenses and the like?

4 A Correct.

5 Q Okay. Now, I'd like to go back -- and let's --
6 let's look at Exhibit 39, if you could go to the first
7 page. Do you have that?

8 A Checks, yes.

9 Q Yes.

10 A Yes.

11 Q Do you see that? And the page number on this
12 exhibit is 015?

13 MR. HIPPLE: Hold on.

14 THE WITNESS: Yes.

15 MR. HIPPLE: Hold on. Not there yet.

16 BY MR. BERKOWITZ:

17 Q Do you see that?

18 A Yes.

19 Q Okay. And if you look there, you see in the first
20 column there's a check to you for 2,500?

21 A Correct.

22 Q Okay. And you go right next to it, there's another
23 one for 820?

24 A Correct.

25 MR. HIPPLE: Hold on. I'm not at the right

1 page then. You said 015?

2 MR. BERKOWITZ: Exhibit 39. It's the first
3 page.

4 MR. HIPPLE: Oh, the first page of Exhibit 39?
5 Well, I'm on it, please. Okay. Page -- page one,
6 right, 007 -- 17?

7 THE COURT: That's Exhibit 39, and the first
8 page has a number on the left-hand top, 000015.

9 MR. HIPPLE: I don't have it. I have --

10 MR. BERKOWITZ: And it has the same number on
11 the bottom.

12 MR. HIPPLE: -- I have 0017.

13 MR. BERKOWITZ: I have no idea what might have
14 happened but that looks like 0015.

15 MR. HIPPLE: Where?

16 MR. BERKOWITZ: I'm sorry, I'm looking upside
17 down. No, here it is. It looks like somebody took it
18 apart. I provided those books to your attorney many
19 months ago.

20 MR. HIPPLE: 0015, go ahead.

21 BY MR. BERKOWITZ:

22 Q Okay. So you see there are checks. These are just
23 like the checks you received before --

24 A Correct.

25 Q -- when it was SCIX? And now, you can see these are

1 coming from Steel Seal Pro?

2 A Correct.

3 Q And these also appear to be signed by Brian Hipple?

4 A Correct.

5 Q And if you look at the top right, you see Quaint Oak
6 Bank?

7 A Yes.

8 Q Okay. And let's go to the next page. It's 0016.

9 And you can see the second check on the left is to A&C
10 Building and Industrial Maintenance?

11 A Yes.

12 Q You see that? And you know that -- do you know to
13 whom that money is paid?

14 A I believe that that was a company of Clem's.

15 Q Of?

16 A Of Clement Hipple's.

17 Q Clement Hipple's. Okay. And then you see two
18 checks to Brian?

19 A Yes.

20 Q Okay. And I would like you to look at the -- on the
21 right, the last check on the right?

22 A Yes.

23 Q And if you could just read for us the memo. Can you
24 make that out?

25 A "SCIX, returning"?

1 Q Retainer?

2 A It could be. That's --

3 Q Okay.

4 A Yeah, retainer.

5 Q And it's made payable to Eastburn and Gray?

6 A Correct.

7 Q And you know they're a law firm in Doylestown?

8 A Correct.

9 Q And this is a Steel Seal Pro check?

10 A Correct.

11 Q Okay. I would like you to go forward to page 00021,
12 and it's -- again, it's more checks.

13 MR. HIPPLE: 31?

14 MR. BERKOWITZ: 21.

15 BY MR. BERKOWITZ:

16 Q Do you see -- have you been able to find the page
17 now?

18 A Yes.

19 Q Okay. If you see the second check, U.S. Treasury,
20 2,500?

21 A Correct.

22 Q Okay. And that's signed by Brian?

23 A Yes.

24 Q And if you go directly across the page, you see a
25 check to Brian, 137 for 3,500?

1 A Correct.

2 Q And then a check to you for 2,500?

3 A Yes.

4 Q And then you see a \$1,000 check to Keystone Volvo?

5 A Correct.

6 Q Brian drove a Volvo, correct?

7 A Yes.

8 Q Okay. And there's a -- the next check in the
9 sequence is a \$9,000 check to you?

10 A Correct.

11 Q And then the next check is another check to Keystone
12 Volvo?

13 A Correct.

14 Q So the first one looks like a deposit, and the
15 second one looks like a payment of some kind?

16 MR. HIPPLE: I object, Your Honor.

17 Speculation.

18 THE WITNESS: Yeah, I wouldn't know.

19 THE COURT: I'll overrule the objection.

20 (Pause in proceedings.)

21 BY MR. BERKOWITZ:

22 Q I'm going to show you Exhibit 86.

23 MR. HIPPLE: What book?

24 MR. BERKOWITZ: Book number three.

25 BY MR. BERKOWITZ:

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1 Q I'm going to represent -- it's piling up. I'm not
2 going to be able to see you anymore.

3 A Right. Okay.

4 Q I'm going to represent to you that that's the
5 document that was reviewed previously in this trial --
6 you got it? And do you see the date? It says closing
7 date, 2-18-2011?

8 Do you see that? It's at the top under that
9 block of writing. Do you see that Scientific Chemical,
10 Clement R. Hipple?

11 A Yes. Okay.

12 Q Okay? With closing date, 2-18-11?

13 A Yes.

14 Q Okay. Now, do you see -- I want you to go down
15 almost to the bottom of the page where it says Brian
16 Hipple?

17 A Yes.

18 Q Now, the last entry on the page, Regal Cinemas?

19 A Yes.

20 Q In Warrington? Did you and Brian go to the movies?

21 A Yes.

22 Q And is that a theater that you went to?

23 A Yes.

24 Q Okay.

25 MR. HIPPLE: What page are you on?

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1 MR. BERKOWITZ: I'm on page three of eight, in
2 Exhibit 86.

3 MR. HIPPLE: Okay.

4 BY MR. BERKOWITZ:

5 Q And go to the next page, four of eight. You see the
6 second entry is Regal Cinemas?

7 A Correct.

8 Q Okay. Same one?

9 A Yes.

10 Q Okay. And then you go down about four or five
11 entries, NB Liebman?

12 Do you see that?

13 A Yes.

14 Q That's a furniture company, right?

15 A I believe so.

16 Q Yes. Do you buy -- did you buy furniture there?

17 A I honestly don't recall.

18 Q Okay. That's fine.

19 A I don't know.

20 Q Let's go down to 1-27-11. Do you see that, Netflix?

21 A Yes.

22 Q Did you use Netflix?

23 A Personally, I don't, but I believe we had it --

24 Q Okay.

25 A -- at the time, yeah.

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1 Q Okay. And if you go down to the bottom of the page,
2 Gaylord National Reserve. Do you see it says, lodging?
3 It looks like it's someplace in Maryland?

4 MR. HIPPLE: I'm sorry, what number?

5 MR. BERKOWITZ: It's the last entry on page
6 four of eight.

7 MR. HIPPLE: Gaylord? Oh, okay.

8 THE COURT: Gaylord.

9 THE WITNESS: I see it, yes.

10 BY MR. BERKOWITZ:

11 Q Okay. And let's go to the next page, five of eight?

12 MR. HIPPLE: Your Honor, is he -- is he
13 verifying this information or is he just telling her
14 that information?

15 THE COURT: Well, on that last one, you didn't
16 really ask a question. You just pointed it out --

17 MR. HIPPLE: Right.

18 THE COURT: -- to her. I don't know if you
19 wanted to ask her if she stayed there or --

20 BY MR. BERKOWITZ:

21 Q I -- is that a place you recall staying?

22 A No, it is not.

23 Q Okay.

24 THE COURT: Okay.

25 MR. HIPPLE: Thank you, Your Honor.

1 BY MR. BERKOWITZ:

2 Q Let's go to the next page, five of eight.

3 MR. HIPPLE: Five of eight, okay.

4 BY MR. BERKOWITZ:

5 Q And let's look down at 1-31-11, Pep Boys Store in
6 Warminster.

7 A Okay.

8 Q Someplace where you might shop or you know Brian
9 might shop?

10 MR. HIPPLE: Objection, Your Honor.

11 THE COURT: Yes. I think you have to be more
12 specific.

13 BY MR. BERKOWITZ:

14 Q Do you recall ever going to the Pep Boys Store there
15 or Brian going to the Pep Boys Store there?

16 A I do not.

17 MR. HIPPLE: Objection, Your Honor. She could
18 have went to Pep Boys at any point in time in her life.

19 THE COURT: No, I think she -- no, I think
20 he's being more specific. He's asking whether she --

21 MR. HIPPLE: On this date, did she go to the
22 Pep Boys Store would be the proper way of the question,
23 I think, Your Honor.

24 THE COURT: All right. Why don't you rephrase
25 it?

1 BY MR. BERKOWITZ:

2 Q Did you or Brian, to the best of your knowledge,
3 ever go to the Pep Boys Store in Warminster, PA?

4 A I did not.

5 MR. HIPPLE: Objection, again, Your Honor.

6 THE COURT: All right.

7 MR. HIPPLE: He's not giving the date.

8 THE COURT: I'll overrule the objection. I'll
9 overrule the objection. He can -- go ahead. Do you
10 ever recall going to Pep Boys in Warminster?

11 THE WITNESS: No.

12 BY MR. BERKOWITZ:

13 Q Okay.

14 A No.

15 Q Let's go down to two -- that's February 2, 2011,
16 Borders Books. Do you ever recall --

17 MR. HIPPLE: I'm talking -- what? Borders?
18 Okay.

19 (Pause in proceedings.)

20 THE COURT: Do you have a question on that?

21 BY MR. BERKOWITZ:

22 Q Do you recall ever going to Borders Books?

23 A Yes, I have been to Borders Books.

24 Q And the one in Warrington?

25 A Yes.

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1 Q Okay. And if you look at 2-4-11, again, Regal
2 Cinemas. I think you testified about that already?

3 A Correct.

4 Q Now, let's go to page six of eight.

5 MR. BERKOWITZ: And, Your Honor, I'm not going
6 to go through each of these American Express bills,
7 although we could. I just want to go through a couple
8 of them.

9 BY MR. BERKOWITZ:

10 Q You see the 2-4, and now, we're on page six of
11 eight?

12 A Yes.

13 Q Do you recall whether Brian used to buy things from
14 Amazon?

15 A Yes.

16 Q Okay. And you see a charge on 2-8-11 for Amazon
17 Marketplace?

18 A Yes.

19 Q Okay. And if you would go down to 2-8-11, you see
20 ProFlowers.com?

21 A Yes.

22 Q Do you ever recall getting flowers from ProFlowers?

23 A Yes.

24 Q Okay. And 2-9-11, there's -- it says an event in
25 Jenkintown. Do you ever recall attending an event -- I

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1 know it's a long time ago, and it's not very specific.

2 A I -- I do not -- right, I do not.

3 Q Okay. That's all right. 2-9-11, the next, there's
4 a Genuardi's Store in Doylestown?

5 A There was.

6 Q Yes. Did you shop there?

7 A Occasionally.

8 Q Okay. Let's go down to the next one, 2-9-11,
9 Domino's Pizza, Doylestown?

10 A Yes.

11 Q Did you ever get pizza from Domino's?

12 A Sure, yes.

13 Q Okay. Look at the bottom of the page, 2-15-11. It
14 looks like a pest control. Do you ever recall using a
15 pest control company?

16 A Yes.

17 Q Okay. And let's just go to seven of eight, and on
18 2-15-11, you see there's an E-ZPass?

19 A Yes.

20 Q Do you have E-ZPass in the car?

21 A Yes, we did.

22 Q Okay. Thank you.

23 MR. HIPPLE: Your Honor, I think we
24 established that Brian had used the American Express
25 card for his personal use. Okay? Can we move onto

1 something else?

2 MR. BERKOWITZ: If -- if he is willing to
3 stipulate that Brian Hipple used --

4 MR. HIPPLE: Yes, I am willing to stipulate --

5 MR. BERKOWITZ: -- the --

6 MR. HIPPLE: -- that Brian used his card for
7 personal use.

8 THE COURT: His corporate card?

9 MR. HIPPLE: The corporate card, yes.

10 MR. BERKOWITZ: The corporate card.

11 THE COURT: Right, right. Okay.

12 MR. HIPPLE: You could have just asked that
13 question up front. It's undeniable.

14 BY MR. BERKOWITZ:

15 Q Now, you recall Brian passed away on September the
16 30th, 2012?

17 A Yes.

18 Q Okay. And you became the administrator of Brian's
19 estate?

20 A Correct.

21 Q Okay. And so you, by default, I guess, or by virtue
22 of that position, had control of his assets?

23 MR. HIPPLE: Your Honor, I would like a chance
24 to hear his question before she answers. Okay?

25 THE COURT: Sure.

1 MR. HIPPLE: Okay.

2 THE COURT: Well, are you having problems --

3 MR. HIPPLE: So, Melissa, please don't --

4 THE COURT: -- are you having problems hearing
5 him?

6 MR. HIPPLE: No, but if she answers the
7 question too fast, I -- yes, I have to process it a
8 little bit. Okay?

9 THE COURT: All right.

10 MR. HIPPLE: Give me a few seconds afterwards.
11 The question again, Mr. Berkowitz.

12 THE COURT: Go ahead, Mr. Berkowitz.

13 BY MR. BERKOWITZ:

14 Q You became the administrator of Brian's estate?

15 A Yes.

16 Q And by virtue of that position, you had control over
17 his assets and business interests?

18 A I believe so.

19 Q Okay. And you testified before that he owned SCIX,
20 LLC?

21 A Correct.

22 Q And I think you said you found out, subsequently,
23 that he owned Steel Seal Pro?

24 A Correct.

25 Q And he also had an interest in the Muay Thai

1 business?

2 A Correct.

3 Q Okay. And you are also familiar with the fact that
4 on November 8th, 2012, Teresa Hipple filed a claim
5 against Brian's estate --

6 MR. HIPPLE: Objection, Your Honor.

7 THE COURT: On what grounds?

8 MR. HIPPLE: On the grounds that she is not
9 familiar with Brian's business.

10 THE COURT: Well, that wasn't the question, so
11 I'll overrule the objection.

12 BY MR. BERKOWITZ:

13 Q You're aware of the fact that Teresa Hipple filed a
14 claim against the estate for \$460,000?

15 A I am aware that there were legal filings going on,
16 yes.

17 Q Okay. And let me see if I can get the right exhibit
18 here.

19 MR. BERKOWITZ: This is also in with the
20 defendants' exhibit book, but I would just like to show
21 her --

22 MR. HIPPLE: What book?

23 MR. BERKOWITZ: It's in the defendants'
24 exhibit book. I don't know the number.

25 MR. HIPPLE: What number --

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1 MR. BERKOWITZ: What I am going to show is a
2 copy of the claim. It's a public filing, and it's --

3 MR. HIPPLE: What book are you in?

4 MR. BERKOWITZ: It's in defendants' exhibit
5 books.

6 MR. HIPPLE: Okay. So you don't happen to
7 know what book?

8 MR. BERKOWITZ: It's -- it's not in my book as
9 an exhibit.

10 THE COURT: He's looking for it. He's trying
11 to find it.

12 (Pause in proceedings.)

13 MR. BERKOWITZ: If you look, you have a list
14 of the defendants' exhibits.

15 MR. HIPPLE: And what is it you're looking
16 for?

17 MR. BERKOWITZ: I'm looking for the claim
18 against the estate of Brian Hipple.

19 (Pause in proceedings.)

20 MR. HIPPLE: 147?

21 MR. BERKOWITZ: That's in my book.

22 BY MR. BERKOWITZ:

23 Q It was also an exhibit, you'll recall, we looked at
24 that at your deposition, correct?

25 A I --

1 THE COURT: I think we looked at that during
2 the trial, too.

3 MR. BERKOWITZ: Yes. There was a claim filed.

4 BY MR. BERKOWITZ:

5 Q You recall that Teresa Hipple -- you just maybe --

6 A Yes.

7 Q -- don't remember the amount?

8 A Right.

9 Q And all I want to do, I'm going to show you this
10 document.

11 (Pause in proceedings.)

12 THE COURT: I have it. It's D-40, Teresa
13 Hipple's notice of claim against the estate of Brian
14 Hipple.

15 Is that what you want?

16 MR. BERKOWITZ: Yes, Your Honor.

17 THE COURT: So it's D-40, Mr. Hipple.

18 BY MR. BERKOWITZ:

19 Q And I would just like to help you. You said you
20 couldn't remember the amount?

21 A Correct.

22 Q Take -- you see here, it's got an amount?

23 A Okay, yes.

24 Q Have you had your recollection refreshed?

25 A Many of the documents I got at that time, I don't

1 have -- this was a very -- a very stressful time, but
2 yes --

3 Q Sure.

4 A -- I can say that, you know, I'm sure I received it
5 and took it to the estate attorney.

6 Q Okay. And it's -- it's filed? It's stamped filed
7 in Orphan's Court?

8 A Okay. Yes.

9 Q And that was Buck's County?

10 A Right.

11 Q Thank you.

12 MR. HIPPLE: Your Honor, is he going to -- to
13 -- is this question in reference, because she's the head
14 of the estate --

15 THE COURT: Yes.

16 MR. HIPPLE: -- of Brian Hipple? Okay.

17 THE COURT: Yes, she's --

18 MR. HIPPLE: So --

19 THE COURT: -- she's the administrator or
20 administratrix of the estate. So these are proper
21 questions.

22 MR. HIPPLE: Okay.

23 BY MR. BERKOWITZ:

24 Q And do recall that you were added as a party to this
25 lawsuit, on behalf of Brian, since --

1 A My understanding is, the administratrix of the
2 estate, yes.

3 Q Yes. And now the complaint reads, "Teresa Hipple,
4 administrator of the estate of Brian Hipple." You may
5 not have seen that.

6 THE COURT: In that capacity. You're -- in
7 that capacity, that's why you're a defendant.

8 THE WITNESS: Okay.

9 THE COURT: That's your understanding, right?

10 THE WITNESS: Right.

11 THE COURT: I think everyone agrees, not
12 individually, it's -- you're an administrator.

13 MR. HIPPLE: The administrator.

14 BY MR. BERKOWITZ:

15 Q And you chose not to defend this case, correct?

16 A Correct.

17 Q You allowed it to default?

18 A Correct.

19 Q Okay. And you also allowed SCIX to default?

20 A Correct.

21 Q And did you know at the time, at least according to
22 the U.S. Patent Office, SCIX owned a patent?

23 A No.

24 Q Okay. So you didn't know that?

25 A I thought -- no, I did not.

1 Q Okay. And you also allowed Steel Seal Pro to
2 default?

3 A Correct.

4 Q Now --

5 MR. HIPPLE: Objection. She was not the
6 administrator of Steel Seal Pro.

7 Oh, yes, she was. I'm sorry, Your Honor.

8 BY MR. BERKOWITZ:

9 Q Now, if you look -- I think that this would be
10 Defendants' Exhibit 41. It's -- I have it.

11 (Pause in proceedings.)

12 BY MR. BERKOWITZ:

13 Q You completed an inventory of the estate of Brian
14 Hipple, correct?

15 A My attorney did, the estate attorney.

16 Q Do you recall that an inventory was filed with the
17 State?

18 THE COURT: An inventory is a list of the
19 assets that were in the estate. So when your husband --
20 when Mr. Brian Hipple died, there were certain assets
21 that were in this estate.

22 Do you remember there was a list that was
23 filed by your attorney?

24 THE WITNESS: I -- I honestly don't.

25 THE COURT: Well, maybe Mr. Berkowitz --

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1 THE WITNESS: I mean, I kind of remember
2 the --

3 THE COURT: -- will show you.

4 MR. HIPPLE: Where are you at?

5 THE WITNESS: -- the tax -- it was, like, a
6 tax return?

7 MR. BERKOWITZ: Again, I don't know where it
8 is in the --

9 THE WITNESS: Okay.

10 THE COURT: All right.

11 MR. BERKOWITZ: -- defendants' exhibits. It's
12 in my trial notebook. I'm going to -- I'm going to show
13 her a copy of the inventory, Your Honor.

14 THE WITNESS: Okay.

15 MR. HIPPLE: Could you tell me what book
16 you're in?

17 MR. BERKOWITZ: I'm in my -- it's not in their
18 books. This is in my books.

19 THE COURT: Do you have a number at all on it?

20 MR. BERKOWITZ: I -- I don't, Your Honor,
21 because it was in the defendants' exhibits, I thought,
22 but I put them all in my book.

23 MR. HIPPLE: May I at least see it first
24 before you show it to her?

25 MR. BERKOWITZ: Absolutely.

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1 THE COURT: Is this the inventory of SCIX's
2 assets?

3 MR. BERKOWITZ: No.

4 THE COURT: Oh.

5 MR. BERKOWITZ: This is the inventory of --

6 MR. HIPPLE: I would like to see it, please?

7 MR. BERKOWITZ: -- Brian Hipple's assets with
8 the --

9 THE COURT: Okay.

10 MR. BERKOWITZ: -- estate.

11 Let me show Mr. Hipple the document.

12 THE COURT: Yes. I don't see it in the
13 defense exhibits.

14 MR. BERKOWITZ: I thought it was going to be
15 in the defendants' exhibits. It is also -- in the
16 defense exhibits, they had listed Teresa Hipple's
17 deposition as an exhibit. And the deposition has these
18 documents attached as exhibits to the deposition. So I
19 didn't include them.

20 THE COURT: Deposition of who, again?

21 MR. BERKOWITZ: Of -- of Melissa Moreno.

22 THE COURT: Oh, Melissa Moreno. Yes, all
23 right. That's D-35 -- D-35.

24 MR. BERKOWITZ: Yes. I'm not sure it's there.
25 I mean, I'm not sure the exhibits are there, but I have

1 the originals here.

2 THE COURT: Yes. It doesn't look like the
3 exhibits are attached to that deposition.

4 All right. So we can just mark this or you
5 can mark it later, mark it -- give it a number, and then
6 we can -- you can make copies of it later.

7 MR. BERKOWITZ: I have them right here, Your
8 Honor.

9 THE COURT: Okay.

10 MR. BERKOWITZ: Here's the original
11 exhibits --

12 THE COURT: Oh, okay.

13 MR. BERKOWITZ: -- as part of the deposition.

14 THE COURT: Right. Okay.

15 Do you have that, Mr. Hipple?

16 MR. HIPPLE: I have this document here, yes.

17 THE COURT: Okay. So go ahead.

18 MR. BERKOWITZ: I -- I need the book.

19 MR. HIPPLE: Okay. But I -- I object to the
20 information that the -- at line seven on this document.

21 THE COURT: What's line seven?

22 MR. BERKOWITZ: Here you go.

23 MR. HIPPLE: It says, Cold -- well, first of
24 all, I'm wrong as to that, but that, "Cold Spring
25 Creamery Road, Doylestown, \$418,000."

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1 That's part of the estate.

2 THE COURT: All right. Well, let's -- let's
3 let Mr. Berkowitz proceed with this, and then you can
4 object, if he asks about it. Okay? We're kind of
5 getting ahead of ourselves here. Let's see what -- what
6 -- he may not -- he may not even ask about it. I don't
7 know what he's going to ask about.

8 BY MR. BERKOWITZ:

9 Q I'm going to show you --

10 MR. HIPPLE: I was just saying the document is
11 incorrect.

12 THE COURT: All right. Well, he's going to
13 show it to her.

14 BY MR. BERKOWITZ:

15 Q I'm going to show you --

16 MR. BERKOWITZ: Your Honor, this is
17 the document that I'm going to want to admit into
18 evidence --

19 THE COURT: Yes. All right.

20 MR. BERKOWITZ: -- just so we have it as --
21 this is Exhibit 5 to Ms. Moreno's deposition.

22 THE COURT: Okay. You can give a number to it
23 later on.

24 MR. BERKOWITZ: Okay.

25 BY MR. BERKOWITZ:

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1 Q And I would like you, Ms. Moreno, to look at these
2 documents.

3 A Yes.

4 (Pause in proceedings.)

5 MR. BERKOWITZ: And -- can I --

6 THE COURT: Yes.

7 BY MR. BERKOWITZ:

8 Q Ms. Moreno, do you see the document that has a tab
9 on the bottom, Exhibit 5, from your deposition that we
10 took?

11 A Yes.

12 Q Okay.

13 A I mean, this right here?

14 Q Yes.

15 A Yes.

16 Q You're pointing to the exhibit tab?

17 A Yes. Okay.

18 Q Okay. And it says at the top of this, Donald
19 Petrille, Jr., Register of Wills at Bucks County,
20 Pennsylvania, Inventory. Do you see that?

21 A Yes.

22 Q And do you see -- you can look down the side, on
23 the top, and it shows that it was filed, although you
24 can't --

25 MR. HIPPLE: Can I have the --

1 THE COURT: Sure.

2 BY MR. BERKOWITZ:

3 Q -- you can't really read the numbers well -- that
4 well?

5 THE COURT: Mr. Hipple is going to look at it
6 with you.

7 MR. BERKOWITZ: Sure.

8 BY MR. BERKOWITZ:

9 Q And do you see the signature line?

10 A Yes.

11 Q And it says, in typed face, Melissa J. Moreno, and
12 there's a signature?

13 A Yes.

14 Q Okay. And that is your signature?

15 A Correct.

16 Q And Peter Thompson is your lawyer?

17 A Correct.

18 Q Okay. Now, let's look at the inventory, which is at
19 the bottom of the page. Do you see that?

20 A Yes.

21 Q Okay. And it lists Wells Fargo Bank, three --
22 \$3,300. And it says -- what it says, here, there is a
23 U.S. tax refund, and there is a commission payment of
24 \$9,234 from the Muay Thai Gym?

25 A Correct.

Ms. Moreno - Direct

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1 Q Okay. Miscellaneous tangible property?

2 A Right.

3 Q And the residence in Doylestown?

4 A Correct.

5 Q The -- the Cold Spring Creamery Road?

6 A Yes.

7 Q Now, and it's totaled up, correct?

8 A Correct.

9 Q And there are no other entries on this?

10 A Correct.

11 Q And --

12 MR. HIPPLE: I object to the total.

13 MR. BERKOWITZ: Okay.

14 THE COURT: Well, it was filed of record. I
15 mean, the fact that you object to the total -- that's
16 what was filed of record, right, so I'm going to
17 overrule the objection.

18 Go ahead, Mr. Berkowitz.

19 BY MR. BERKOWITZ:

20 Q Ms. Moreno, there is no entry in this inventory of
21 SCIX, correct, Brian's company?

22 A Correct.

23 Q Okay. And there is no entry for Steel Seal Pro, as
24 an asset of the estate?

25 A Correct.

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1 Q And as of the date Brian died, the last bank record
2 we have shows that on 9-28-2012, there was \$147,692.43
3 in the Steel Seal Pro bank account with First National
4 Bank?

5 A Yes.

6 Q Okay. And --

7 MR. HIPPLE: When you say yes, you --

8 MR. BERKOWITZ: I'm -- I'm --

9 THE COURT: You can't --

10 MR. HIPPLE: Okay. I'm sorry. Go ahead.

11 THE COURT: You'll have a turn to ask her
12 questions.

13 BY MR. BERKOWITZ:

14 Q And you know that money continued to come in to the
15 Steel Seal Pro bank account, didn't you?

16 A Yes.

17 Q Okay. And did you know that Mr. Hipple, Clement
18 Hipple, had taken \$40,000 out of that account after
19 Brian's death?

20 A No. I --

21 Q Okay. And you didn't list Steel Seal Pro which was
22 owned by Brian as an asset? It's not on the list?

23 A Right.

24 Q Okay. Let me see if I can clear up a couple of
25 those books so we can get through this. I'm almost

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1 done.

2 MR. BERKOWITZ: Your Honor, can we have a copy
3 of this made --

4 THE COURT: Sure. Yes.

5 MR. BERKOWITZ: -- so that I can keep the
6 deposition --

7 THE COURT: Well, can we do it after we're
8 finished here?

9 MR. BERKOWITZ: Oh, yes. Sure.

10 THE COURT: Yes. I'll make one for Mr.
11 Hippel, too.

12 MR. BERKOWITZ: I think that would be
13 Plaintiff's Exhibit 202 --

14 THE COURT: Okay.

15 MR. BERKOWITZ: -- I think.

16 THE COURT: That's the inventory, right?

17 MR. BERKOWITZ: Correct.

18 THE COURT: Right.

19 MR. BERKOWITZ: If we don't keep it neat,
20 everything gets lost. All right. Let's see if we can
21 find Volume II. Yes, this is the one, just hold on to
22 this for a second.

23 THE WITNESS: Sure.

24 MR. BERKOWITZ: I'm going to take this one out
25 of your way and take this one out of your way.

1 BY MR. BERKOWITZ:

2 Q And I would like you to turn in Volume I to Exhibit
3 -- I'm sorry -- this is Volume II, Number 54. I'm
4 sorry, Number 51. Have you found that? Do you see
5 that?

6 A I didn't -- should it be --

7 Q Do you see that document --

8 THE COURT: We're in Defendants' --

9 MR. BERKOWITZ: Plaintiff's --

10 THE COURT: Plaintiff's --

11 MR. BERKOWITZ: -- Plaintiff's Exhibit 51.

12 THE COURT: Thank you.

13 MR. BERKOWITZ: We have seen this before.

14 This is the complaint that Complete Group filed against
15 Steel Seal Pro, Plaintiff's Exhibit -- I'm sorry, 50 --
16 no, 51. I had the same problem last time.

17 MR. HIPPLE: What was your question?

18 BY MR. BERKOWITZ:

19 Q Do you see the complaint?

20 A Yes.

21 Q And do you remember -- you were served with this
22 lawsuit on December 5th, 2012?

23 A If that -- I don't remember the exact date, but yes.

24 Q Okay. But you remember being served?

25 A I was served a lot at that time, so, yes.

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1 Q Okay. You were served by a sheriff?

2 A Right.

3 Q Okay. And if we could -- I don't want you to look
4 at --

5 MR. BERKOWITZ: We saw, Your Honor, in
6 previous testimony Document 52 as the certified docket
7 of the Court --

8 THE COURT: Right.

9 MR. BERKOWITZ: -- which shows the service on
10 Ms. Moreno.

11 BY MR. BERKOWITZ:

12 Q Now, you didn't respond to the lawsuit, did you?

13 A Right.

14 Q Even though there was -- it became over \$200,000 in
15 the account, correct?

16 A Correct.

17 Q So you knew there was a lot of money there?

18 A Yes.

19 Q Okay. You knew it was -- at a certain point, you
20 knew it was Brian's company?

21 A Yes.

22 Q Okay. And you also knew, if you look at this
23 lawsuit, I think you told us that this was Clement
24 Hipple's company suing Brian's company?

25 A Yes.

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1 Q Okay. And you knew that as a result of a default,
2 the money in the account could go to Mr. Hipple?

3 A I wouldn't say that I knew that, no.

4 Q Okay. But you didn't -- you allowed -- you didn't
5 answer it?

6 A Correct.

7 Q Okay. And you had an attorney, Mr. Thompson?

8 A Correct.

9 Q Okay. And after the default took place, do you
10 recall that you were called to Mr. Shavel's office in
11 February of 2013 to pick up money for Complete Group?

12 A Correct.

13 Q Okay. And you knew it was the Steel Seal money?

14 A Yes.

15 Q Okay. And it was a check that you picked up for
16 almost \$198,000?

17 A I don't remember the amount, but I picked up the
18 check for it, yes.

19 Q Okay. And you deposited that money into Clement
20 Hipple's bank account?

21 A Correct.

22 Q Okay. And on March 29th, Clement Hipple provided to
23 you \$5,000. Do you recall that?

24 A I don't know the exact date.

25 Q But you did get the 5,000. You don't recall the

1 date?

2 A Correct.

3 Q Okay.

4 MR. BERKOWITZ: I have no further questions,
5 Your Honor.

6 THE COURT: Okay.

7 MR. BERKOWITZ: This is where I would move my
8 exhibits, but I --

9 THE COURT: Well, you've got to wait --

10 MR. BERKOWITZ: -- I guess I'll allow him to
11 cross-examine.

12 THE COURT: Let him cross-examine first, yes.

13 MR. HIPPLE: I have a great blunder. I have
14 lost the questions for Melissa from my attorney, okay?
15 So I'll limit it to what I can ask her. For some
16 reason, it's not available, right?

17 CROSS-EXAMINATION

18 BY MR. HIPPLE:

19 Q Okay. During the time of SCIX, okay, that Brian
20 owned SCIX, all right, did you -- did you ever see me
21 with any involvement with SCIX?

22 A No.

23 Q All right. Did you see me used to pick up the
24 supplies for SCIX in the truck, the cases --

25 A Right.

1 Q -- I would go and pick up cases and deliver them?

2 A Maybe once or -- like when you were in town, you
3 would help with that, yes.

4 Q Okay. Right. Only when I was in town --

5 A Right.

6 Q -- because I lived in Columbia, correct?

7 A Or Arizona.

8 Q Okay. But to your knowledge, you never saw me make
9 any decisions or do anything as far as Brian's company
10 was concerned?

11 A Correct.

12 Q Okay. All right. Now, during the time SCIX was in
13 business, did you not pack boxes, answer phones, print
14 labels, okay?

15 A Yes.

16 Q All right. So basically you were part of the
17 business with Brian, is that correct?

18 A Right.

19 Q And you received compensation for that, correct?

20 A Correct.

21 Q Okay. All right. In reference to Brian's credit
22 cards, right, do you know what he actually used? I'm
23 talking about his individual credit cards that he had
24 himself, okay? Do you know at this point in time what
25 the uses of those credit cards were for? Could they

1 have been business, could they have been personal, could
2 they have been --

3 A Right, they would have -- could have been either.

4 Q Anything, right?

5 A Correct.

6 Q You didn't have no knowledge of what those credit
7 cards were used for?

8 A Correct.

9 Q Okay. Okay. Steel Seal Pro, right, basically, you
10 knew that was developed, okay, right, Steel Seal Pro?

11 A Correct.

12 Q During the -- the lawsuit period? Okay. From SCIX
13 to Steel Seal Pro, correct?

14 A Right. I didn't know much about Steel Seal Pro
15 until after he passed, so --

16 Q Okay.

17 A -- other than it was the -- the bank account name
18 changed.

19 Q Right. So you didn't know that he actually owned
20 Steel Seal Pro?

21 A Right.

22 Q Okay. All right. As far as the lawsuit against
23 you, okay, you had an attorney basically, right?

24 A Yes.

25 Q Peter Thompson, okay. And he advised you on

1 everything you did, is that correct?

2 A Correct.

3 Q And you took his advice?

4 A Correct.

5 Q Right. As -- as far as -- did he also advise you
6 not to fight the lawsuit?

7 A Correct.

8 Q Okay. So that wasn't your decision. It was Peter
9 Thompson's decision?

10 MR. BERKOWITZ: Objection.

11 MR. HIPPLE: Objection --

12 THE COURT: I'll overrule the objection.

13 MR. BERKOWITZ: Anything like that --

14 THE COURT: I know he's leading him, but go
15 ahead.

16 MR. HIPPLE: Rephrase it?

17 THE COURT: No, you can go ahead. You can
18 answer it.

19 BY MR. HIPPLE:

20 Q Basically, your attorney advised you on what to do?

21 A Correct.

22 Q Okay. All right. Now, let's go into the -- the
23 conversation with Mike Shaffer (sic). I believe you
24 called Mike Shaffer or you called his law firm after I
25 had called you?

1 A Yes.

2 Q Okay.

3 THE COURT: Shaffer or Shavel?

4 MR. HIPPLE: I think Shaffer. Shaffer --

5 MR. BERKOWITZ: It's Shavel.

6 MR. HIPPLE: -- Shavel. Okay. Again, it
7 comes back to that other problem, okay?

8 BY MR. HIPPLE:

9 Q Okay. I called you, right, correct, from Columbia?

10 A Correct.

11 Q All right. And I asked you if you could do
12 something for me, correct?

13 A Correct.

14 Q And what was that I asked you to do?

15 A To pick up the check for you and deposit it in the
16 bank account.

17 Q Right. Okay. Do you know why I asked you to do it?

18 A Because you trusted me.

19 Q Okay. All right.

20 A And I would have done the same had Teresa called me.

21 Q Right. Okay. Is it true that I give you \$5,000 a
22 month?

23 A Yes.

24 Q Okay. So that 5,000 payment he was talking about is
25 the 5,000 I give you after Brian passed away, is that

1 || correct?

2 A Correct.

3 Q Okay. Fine. It wasn't a \$5,000 bribe --

4 || A No.

5 Q -- for you to pick up the check and take to the
6 bank, right?

7 || A No.

8 || Q Okay. Okay.

9 MR. HIPPLE: No further questions, Your Honor.

REDIRECT EXAMINATION

11 BY MR. BERKOWITZ:

12 Q Did Mr. Hipple refer you to or recommend Mr.
13 Thompson as an attorney for the estate?

14 A No.

15 || Q Okay.

16 MR. BERKOWITZ: No further questions, Your
17 Honor.

18 THE COURT: Anything else, Mr. Hipple?

19 MR. HIPPLE: Not -- no, I'm done with her.

20 THE COURT: Okay. Ms. Moreno, thank you.

21 You're excused.

THE WITNESS: Thank you. I don't have to
clean up the books or anything.

24 MR. HIPPLE: That was easy. I lost the
25 questions. There was probably 30 questions -- 35

1 questions, so it made it real simple.

2 (Witness excused.)

3 THE COURT: Okay. So I understand the
4 plaintiff is resting subject to the admission of these
5 exhibits, right?

6 MR. BERKOWITZ: Correct, Your Honor.

7 THE COURT: Okay. Do you want to go over
8 them? So what we're going to do now, Mr. Hipple, is Mr.
9 Berkowitz is moving into evidence the various exhibits
10 that were identified throughout the trial --

11 MR. HIPPLE: Right.

12 THE COURT: -- okay? So he's going to read
13 them out, read the numbers out, and then you have an
14 opportunity to object and then if there's no -- if
15 there's no objection, they're going to be admitted into
16 evidence. If there's an objection, I'll have to rule on
17 it.

18 MR. HIPPLE: Okay. How do we -- how do we
19 start this, through the books? Book one?

20 THE COURT: Well, what -- we'll start
21 sequentially, I hope?

22 MR. BERKOWITZ: Yes.

23 THE COURT: Good.

24 MR. BERKOWITZ: You should have an exhibit
25 list. I've provided an exhibit list to everybody and I

1 probably have more copies.

2 MR. HIPPLE: Okay. I'm going to try to follow
3 it through the book instead of the list, Your Honor.

4 THE COURT: Okay.

5 MR. HIPPLE: It would be easier for me to
6 understand.

7 THE COURT: I have the exhibit list.

8 MS. MORENO: May I be excused, Your Honor?

9 MR. BERKOWITZ: Yes, you're free to leave.

10 MR. HIPPLE: Yes, you're free to leave.

11 (Pause in proceedings.)

12 MR. BERKOWITZ: You have -- you have the list,
13 Your Honor?

14 THE COURT: Pardon me?

15 MR. BERKOWITZ: You have the list?

16 THE COURT: I do have the list, yes.

17 MR. BERKOWITZ: Okay. I'm going to go right
18 now --

19 MR. HIPPLE: And we're going to do this kind
20 of in the -- so I can follow it, please.

21 MR. BERKOWITZ: My intention is to move for
22 the admission of every exhibit that was presented into
23 evidence --

24 THE COURT: Okay.

25 MR. BERKOWITZ: -- and discussed.

1 THE COURT: Right.

2 MR. BERKOWITZ: And to include documents that
3 Mr. Shavel would have used, they mainly constitute
4 public records, but to the extent that there's something
5 that isn't a public record -- I don't even know if there
6 are any --

7 THE COURT: Right. There may not be.

8 MR. BERKOWITZ: Yes.

9 THE COURT: Right.

10 MR. BERKOWITZ: I will start with Plaintiff's
11 Exhibit 1, the accident photos.

12 THE COURT: Any objection?

13 MR. HIPPLE: Yes, I object. There are no
14 bearing on the case, Your Honor.

15 THE COURT: All right. I'll overrule the
16 objection. Admitted.

17 (Plaintiff's Exhibit Number 1, Teresa Hipple
18 accident photos, is admitted into evidence.)

19 MR. HIPPLE: You overrule. That means no,
20 right?

21 THE COURT: Yes. I'm going to admit it. I'll
22 say admitted.

23 MR. HIPPLE: Okay.

24 MR. BERKOWITZ: Exhibit Number 2 --

25 THE COURT: But if I -- let me stop you. I'm

1 sorry, Mr. Berkowitz. So, Mr. Hippel, if I don't hear
2 you object, they're going to be admitted. So after we
3 go through each one of these, if you object, say object,
4 okay?

5 MR. HIPPLE: Okay.

6 THE COURT: So go ahead, Number 2 is the
7 judgment --

8 MR. BERKOWITZ: Number 2, SCIX \$250,000
9 judgment note. Exhibit 3, SCIX --

10 THE COURT: That's admitted. 3.

11 (Plaintiff's Exhibit Number 2, SCIX \$250,000
12 judgment note, is admitted into evidence.)

13 MR. BERKOWITZ: \$100,000 judgment note.

14 THE COURT: Admitted.

15 (Plaintiff's Exhibit Number 3, SCIX \$100,000
16 judgment note, is admitted into evidence.)

17 MR. BERKOWITZ: 4, Bucks County docket for
18 Case 972.

19 THE COURT: Admitted.

20 (Plaintiff's Exhibit Number 4, Bucks County
21 docket for Case 972, is admitted into evidence.)

22 MR. BERKOWITZ: 5, Bucks County docket, Case
23 974.

24 THE COURT: Admitted.

25 (Plaintiff's Exhibit Number 5, Bucks County

1 docket for Case 974, is admitted into evidence.)

2 MR. BERKOWITZ: Exhibit 6, Teresa --

3 MR. HIPPLE: One moment. I want to check it,
4 okay? No, go ahead.

5 MR. BERKOWITZ: Exhibit 6, the SCIX accounting
6 record.

7 MR. HIPPLE: I object to this record, Your
8 Honor, because he has another record similar to this.

9 THE COURT: I'll admit it.

10 (Plaintiff's Exhibit Number 6, SCIX accounting
11 record, is admitted into evidence.)

12 MR. BERKOWITZ: Number 8, the October 5
13 promissory note from SCIX to Clement Hipple.

14 THE COURT: You're skipping 7 then?

15 MR. BERKOWITZ: Yes. 7 is out. I did not use
16 that.

17 THE COURT: Okay. 8.

18 MR. BERKOWITZ: 8 is the October 5 promissory
19 note, SCIX to Clement Hipple.

20 THE COURT: Admitted.

21 (Plaintiff's Exhibit Number 8, October 5
22 promissory note from SCIX to Clement Hipple, is admitted
23 into evidence.)

24 MR. BERKOWITZ: 9, Clement Hipple loan, the
25 SCIX accounting record.

1 THE COURT: Admitted.

2 (Plaintiff's Exhibit Number 9, SCIX accounting
3 record of the Clement Hipple loan, is admitted into
4 evidence.)

5 MR. BERKOWITZ: 10, the security agreement,
6 that is, the UCC-1 -- oh, I'm sorry.

7 MR. HIPPLE: I'm sorry.

8 MR. BERKOWITZ: No, that's the security
9 agreement.

10 MR. HIPPLE: Agreement, right.

11 THE COURT: Admitted.

12 (Plaintiff's Exhibit Number 10, security
13 agreement, is admitted into evidence.)

14 MR. BERKOWITZ: 11 is the UCC-1 financing
15 statement.

16 THE COURT: Admitted.

17 (Plaintiff's Exhibit Number 11, UCC-1
18 financing statement, is admitted into evidence.)

19 MR. BERKOWITZ: October 8, 2010 demand letter.

20 THE COURT: Number 12 you mean, right?

21 MR. BERKOWITZ: I'm sorry, Number 12.

22 THE COURT: Admitted.

23 (Plaintiff's Exhibit Number 12, October 8,
24 2010 demand letter, is admitted into evidence.)

25 MR. BERKOWITZ: Number 13, the October 13th

1 demand to repossess the collateral and Brian Hipple's
2 consent.

3 THE COURT: Admitted.

4 (Plaintiff's Exhibit Number 13, October 13th
5 demand and Brian Hipple's consent, is admitted into
6 evidence.)

7 MR. BERKOWITZ: Number 14, the licensing
8 agreement with Steel Seal Pro --

9 THE COURT: Admitted.

10 MR. BERKOWITZ: -- only Steel Seal Pro. The
11 other one is not a plaintiff exhibit. I don't even
12 think it's a defendant exhibit anymore.

13 MR. HIPPLE: Which other one are you talking
14 about?

15 MR. BERKOWITZ: If you look on my --

16 THE COURT: Well, I'm admitting 14.

17 (Plaintiff's Exhibit Number 14, licensing
18 agreement with Steel Seal Pro, is admitted into
19 evidence.)

20 MR. HIPPLE: Admitting 14, right.

21 MR. BERKOWITZ: Number 15, October 29th
22 purchase agreement, Clement Hipple and Complete Group.

23 THE COURT: Admitted.

24 (Plaintiff's Exhibit Number 15, October 29th
25 purchase agreement, Clement Hipple and Complete Group,

1 is admitted into evidence.)

2 MR. BERKOWITZ: 16, October 18 Complete Group
3 certificate of formation.

4 THE COURT: Admitted.

5 (Plaintiff's Exhibit Number 16, October 18
6 Complete Group certificate of formation, is admitted
7 into evidence.)

8 MR. BERKOWITZ: 17, that's the assignment of
9 Clement Hipple's SCIX interest to Brian Hipple.

10 THE COURT: Admitted.

11 (Plaintiff's Exhibit Number 17, assignment of
12 Clement Hipple, is admitted into evidence.)

13 MR. BERKOWITZ: Number 18 are the two letters
14 to Colonial Chemical.

15 THE COURT: Admitted.

16 MR. HIPPLE: I object --

17 THE COURT: Go ahead.

18 MR. HIPPLE: -- I object to the second letter
19 being admitted.

20 THE COURT: Why?

21 MR. HIPPLE: Well, Brian Hipple's not here and
22 nobody can prove this is a document from Brian Hipple.

23 THE COURT: I'll overrule the objection. It's
24 admitted.

25 (Plaintiff's Exhibit Number 18, two letters to

1 Colonial Chemical, is admitted into evidence.)

2 MR. BERKOWITZ: Exhibit 19, Wachovia checks to
3 A&C.

4 THE COURT: Admitted.

5 (Plaintiff's Exhibit Number 19, Wachovia Bank
6 checks to A&C, is admitted into evidence.)

7 MR. BERKOWITZ: Exhibit 20, I believe are SCIX
8 loan repayments to Clement Hipple. I believe those are
9 Wachovia checks but I'm not positive of that, Your
10 Honor.

11 MR. HIPPLE: All right. 20 is fine.

12 THE COURT: Admitted -- admitted.

13 (Plaintiff's Exhibit Number 20, SCIX loan
14 repayments to Clement Hipple, is admitted into
15 evidence.)

16 MR. BERKOWITZ: Number 21 are the Colonial
17 Chemical invoices.

18 THE COURT: Admitted.

19 (Plaintiff's Exhibit Number 21, Colonial
20 Chemical invoices, is admitted into evidence.)

21 MR. BERKOWITZ: Number 22 --

22 MR. HIPPLE: Hold on. Okay. Go ahead. Go
23 ahead, yes.

24 THE COURT: Go ahead.

25 MR. BERKOWITZ: Number 22 is the Colonial

1 Chemical communications.

2 THE COURT: Admitted.

3 (Plaintiff's Exhibit Number 22, Colonial
4 Chemical communications, is admitted into evidence.)

5 MR. BERKOWITZ: Number 23 is the U.S. Patent
6 Office recording of the judgment of Teresa Hipple, the
7 official document.

8 THE COURT: 23 -- 23, right?

9 MR. BERKOWITZ: Yes.

10 THE COURT: Admitted.

11 (Plaintiff's Exhibit Number 23, U.S. Patent
12 Office recording of judgment, is admitted into
13 evidence.)

14 MR. BERKOWITZ: 24 are the SCIX responses to
15 interrogatories in aid of execution.

16 THE COURT: Admitted.

17 (Plaintiff's Exhibit Number 24, SCIX responses
18 to interrogatories, is admitted into evidence.)

19 MR. BERKOWITZ: Number 25 is the affidavit of
20 Clement Hipple.

21 THE COURT: Admitted.

22 (Plaintiff's Exhibit Number 25, affidavit of
23 Clement Hipple, is admitted into evidence.)

24 MR. BERKOWITZ: Number 26, 27, 28 and 29 and
25 30 are all the JC Consultant records. Those are the

1 notes --

2 MR. HIPPLE: Judgment notes.

3 MR. BERKOWITZ: -- and the Bucks County
4 dockets showing the status on the docket. Those are
5 documents that I would have used with Mr. Shavel, and we
6 discussed the fact that those documents require the
7 filing of a complaint and confession of judgment.

8 THE COURT: Right. Okay. Any objection?

9 They're admitted.

10 (Plaintiff's Exhibit Numbers 26 to 29, JC
11 Consultant records, is admitted into evidence.)

12 (Plaintiff's Exhibit Number 30, Bucks County
13 dockets, is admitted into evidence.)

14 MR. BERKOWITZ: Exhibit 31, Mr. Geisser's
15 expert report.

16 THE COURT: Admitted.

17 (Plaintiff's Exhibit Number 31, Mr. Geisser's
18 expert report, is admitted into evidence.)

19 MR. BERKOWITZ: Number 32, the petition to
20 intervene in the Bucks County litigation. Again, that
21 goes to Mr. Shavel. That's the answer -- I'm sorry.

22 MR. HIPPLE: Now, wait. 31 was the expert --
23 okay, the expert report. And then 32 -- I'm not --
24 okay.

25 MR. BERKOWITZ: Petition to intervene.

1 MR. HIPPLE: Okay.

2 THE COURT: Yes, typically people don't
3 introduce the reports, but I assume you're both going to
4 have the reports and that's fine. It's a non-jury case.
5 Usually in a jury trial we don't get the reports, but --

6 MR. BERKOWITZ: It was referred to extensively
7 also.

8 THE COURT: Yes, that's right. It's admitted.
9 And I'll admit Mr. Pederson's report. I'm sure you
10 won't have an objection to that.

11 (Plaintiff's Exhibit Number 32, petition to
12 intervene, is admitted into evidence.)

13 MR. BERKOWITZ: Exhibit 33 is the profit and
14 loss for BBB Management Group.

15 THE COURT: Admitted.

16 (Plaintiff's Exhibit Number 33, profit and
17 loss for BBB Management Group, is admitted into
18 evidence.)

19 MR. BERKOWITZ: 34 is the profit and loss for
20 Complete Group.

21 THE COURT: Admitted.

22 (Plaintiff's Exhibit Number 34, profit and
23 loss for Complete Group, is admitted into evidence.)

24 MR. BERKOWITZ: 35 is the letter from Hill
25 Wallack --

1 MR. HIPPLE: Hold on.

2 MR. BERKOWITZ: -- that would have -- that Mr.
3 Shavel would have testified to about the JC Consultant
4 execution.

5 MR. HIPPLE: One minute, Your Honor, please.

6 I object to this because it has nothing to do with me.

7 THE COURT: All right. I'll admit it. It's a
8 public record. It's filed with the Prothonotary. The
9 letter is filed with the Prothonotary, so -- you're
10 doing on relevance, but I find it is relevant. You're
11 objecting on relevance grounds, but I find it is
12 relevant, so, all right, go ahead.

13 (Plaintiff's Exhibit Number 35, letter from
14 Hill Wallack, is admitted into evidence.)

15 MR. HIPPLE: Okay.

16 MR. BERKOWITZ: Number 36, the Steel Seal,
17 LLC, Master Card processing application.

18 MR. HIPPLE: I object to that, Your Honor. I
19 have never seen that document.

20 THE COURT: What number again? I'm sorry.

21 MR. BERKOWITZ: Number 36. Your Honor, that's
22 the document where Steel Seal applied for credit card
23 processing with Brian Hipple's name on it --

24 MR. HIPPLE: I object to that document.

25 MR. BERKOWITZ: -- submitted after Brian

1 Hipple's death, and it had all the information of Steel
2 Seal on Mr. Hipple's letter.

3 THE COURT: The problem is that you showed
4 this to one witness, and I forget who it was --

5 MR. BERKOWITZ: I showed it to Mr. Hipple.

6 MR. HIPPLE: And I never --

7 THE COURT: -- and Mr. Hipple said he never
8 saw it.

9 MR. HIPPLE: -- I never saw it and I object to
10 it.

11 MR. BERKOWITZ: Your Honor, on the letter that
12 Mr. Hipple identified as his and you'll see --

13 MR. HIPPLE: No, that's not true.

14 MR. BERKOWITZ: -- where we get to that, it
15 had on it the EIN number of Steel Seal, LLC --

16 MR. HIPPLE: But anybody could have copied the
17 EIN number.

18 MR. BERKOWITZ: -- and he testified that that
19 was his letter --

20 THE COURT: Let him finish.

21 MR. BERKOWITZ: -- and he was the only one
22 with that information and that appeared on the document
23 submitted after Brian's death. It could not have come
24 from any other place.

25 MR. HIPPLE: I object to it, Your Honor. I

1 have never seen the document. I never filled out the
2 document. I don't -- I don't know how the document ever
3 took place.

4 THE COURT: I'll sustain the objection. I'm
5 not going to admit it. You haven't authenticated it
6 properly in my view.

7 MR. HIPPLE: That comes out?

8 THE COURT: It comes out. That number is 36,
9 right?

10 MR. BERKOWITZ: I would take exception to
11 that, Your Honor.

12 THE COURT: Yes. Sure. Okay.

13 MR. BERKOWITZ: Exhibit 37 lists the --

14 MR. HIPPLE: Hold on, hold on, hold --

15 MR. BERKOWITZ: -- Clement Hipple's companies.

16 MR. HIPPLE: Okay. One minute now because I
17 got all these papers here. Hold on. Give me one
18 minute. Where are you at now, 37?

19 MR. BERKOWITZ: 37.

20 MR. HIPPLE: Hold on for a minute. I think I
21 took out the number. Just give me a little break here,
22 because this is my first time at this.

23 (Pause in proceedings.)

24 MR. HIPPLE: Quickly looking through it.
25 Okay.

1 THE COURT: Okay. 37 is admitted.

2 (Plaintiff's Exhibit Number 37, list of
3 Clement Hipple's companies, is admitted into evidence.)

4 MR. BERKOWITZ: 38, we saw that, that's the
5 website registration information for Steel Seal.

6 MR. HIPPLE: I'm not sure about this
7 information, Your Honor, whether it's correct or
8 incorrect.

9 MR. BERKOWITZ: Your Honor, it was the
10 defendants' exhibit produced to me.

11 MR. HIPPLE: Oh, okay.

12 THE COURT: All right. No objection. 38 is
13 admitted.

14 MR. HIPPLE: 38.

15 (Plaintiff's Exhibit Number 38, website
16 registration information for Steel Seal, is admitted
17 into evidence.)

18 MR. BERKOWITZ: 39 --

19 MR. HIPPLE: Hold on, hold on, hold on. Okay.

20 MR. BERKOWITZ: 37 was in, I believe.

21 THE COURT: Yes. Right. Yes.

22 MR. HIPPLE: All right. 39.

23 MR. BERKOWITZ: First National Bank records.

24 MR. HIPPLE: And, Your Honor, these records --
25 give me a second. I'm sorry.

1 THE COURT: I'm smiling, not at you, just
2 because all this -- all my documents just fell on the
3 ground. Go ahead. What number are we on, 39?

4 MR. BERKOWITZ: 39.

5 THE COURT: 39. All right. Hold on.

6 MR. HIPPLE: Again, these records are
7 basically -- have nothing to do with the lawsuit
8 presently, okay? These have to do with Steel Seal Pro
9 and that is no longer attached to this lawsuit. The
10 lawsuit is between just myself, okay, and these records
11 have nothing to do with me.

12 MR. BERKOWITZ: Your Honor, a lot of the
13 records --

14 THE COURT: I'll overrule the objection.
15 They're admitted. That's 39, right?

16 MR. BERKOWITZ: Correct.

17 (Plaintiff's Exhibit Number 39, First National
18 Bank records of Steel Seal Pro, is admitted into
19 evidence.)

20 MR. BERKOWITZ: 40 is the First National Bank
21 records --

22 MR. HIPPLE: Same objection.

23 MR. BERKOWITZ: -- for the estate of Brian
24 Hipple and Ms. Moreno just used that today.

25 THE COURT: They're admitted.

1 (Plaintiff's Exhibit Number 40, First National
2 Bank records of the estate of Brian Hipple, is admitted
3 into evidence.)

4 MR. BERKOWITZ: 41, the Wachovia Bank records.

5 MR. HIPPLE: Same objection. These are really
6 an objection because they go all the way back to SCIX,
7 Your Honor.

8 MR. BERKOWITZ: Yes, exactly.

9 THE COURT: They're admitted.

10 (Plaintiff's Exhibit Number 41, Wachovia Bank
11 records, is admitted into evidence.)

12 MR. BERKOWITZ: Number 42 was the Merchant
13 Credit Card processing agreement for Steel Seal Pro.

14 MR. HIPPLE: Again --

15 MR. BERKOWITZ: And, Your Honor, that was a
16 defense exhibit, Number 27.

17 MR. HIPPLE: I guess we got to admit it then.

18 THE COURT: Right. What number again are we
19 on?

20 MR. BERKOWITZ: 42.

21 MR. HIPPLE: 43 -- 42.

22 THE COURT: I know -- it doesn't matter,
23 though, Mr. Berkowitz, even though it was marked as an
24 exhibit, this is your case. You have the obligation to
25 properly lay the foundation and introduce some evidence,

1 and you haven't with respect to 41 -- 42, excuse me.

2 MR. BERKOWITZ: Your Honor, Mr. Hipple
3 identified what these documents were. My interest is --

4 MR. HIPPLE: No, I never seen this document.

5 MR. BERKOWITZ: Your Honor, my --

6 THE COURT: I don't think he -- I mean, he
7 said he -- if I recall correctly, he did not see this.
8 He wasn't -- I believe he said he wasn't involved in --
9 because Brian Hipple signed it.

10 MR. HIPPLE: I never saw this.

11 MR. BERKOWITZ: Your Honor, he was familiar
12 with the fact that to get credit cards purchased and
13 into his bank account, it's the Merchant Card processing
14 agreements.

15 MR. HIPPLE: No, no.

16 MR. BERKOWITZ: He was familiar with that,
17 just like he filled out Number 36 for his son after he
18 passed away.

19 THE COURT: Well, he didn't fill out 42. It
20 was Brian Hipple, and I believe you didn't -- either he
21 never identified or adopted it as his own or talked
22 about. You really had to bring in the Merchant --

23 MR. BERKOWITZ: Your Honor, there were also --

24 THE COURT: -- custodian of records if you
25 wanted to get that in.

1 MR. BERKOWITZ: There were initials on it that
2 I believe were identified of Brian Hipple's on it.

3 MR. HIPPLE: But, again, Your Honor --

4 THE COURT: Well, Brian Hipple's not --

5 MR. HIPPLE: -- Your Honor, nothing to do with
6 me.

7 THE COURT: -- 42, I'm not -- I'm not
8 admitting it. You haven't authenticated it and you
9 haven't laid the proper foundation.

10 MR. HIPPLE: Is it out?

11 THE COURT: So 42 is out.

12 MR. BERKOWITZ: Your Honor, on Exhibit 42, we
13 had the signature of Brian Hipple authenticated several
14 times. It appears --

15 THE COURT: Who authenticated it?

16 MR. BERKOWITZ: I -- I believe Mr. Hipple did.

17 MR. HIPPLE: I don't believe I identified this
18 document at all.

19 MR. BERKOWITZ: Your Honor, there's -- his
20 signature appears there several times.

21 THE COURT: I don't recall Mr. Hipple
22 authenticating that. My recollection is that whenever
23 he was confronted with an application for Merchant
24 Credit Card processing, he said I don't have any
25 knowledge of this agreement.

1 MR. HIPPLE: And I don't have any knowledge of
2 that.

3 THE COURT: Right.

4 MR. BERKOWITZ: He did look -- he did look at
5 these signatures, Your Honor, and he -- he was able to
6 authenticate every signature on a document that he
7 wanted to use and he was unable to authenticate the same
8 exact signature on a document he didn't want to use.

9 THE COURT: I stand by my ruling. I'm not
10 going to admit it.

11 MR. BERKOWITZ: Okay. What's the next one,
12 Your Honor, that we're up to? I'm sorry. 45.

13 MR. HIPPLE: 43.

14 MR. BERKOWITZ: Yes. I'm not moving to admit
15 that.

16 THE COURT: 43 is out.

17 MR. BERKOWITZ: Yes, 43 is out.

18 MR. HIPPLE: Hold on.

19 THE COURT: All right. 43 is admitted.

20 MR. BERKOWITZ: Not 43.

THE COURT: Oh, sorry.

22 MR. BERKOWITZ: 43 is not offered.

23 THE COURT: Which, 44?

24 MR. BERKOWITZ: 44.

THE COURT: You don

1 right, to that one?

2 MR. HIPPLE: 44?

3 THE COURT: Right.

4 MR. HIPPLE: Let me take a quick look. It's
5 mine, yes.

6 THE COURT: All right. Admitted. It's
7 admitted.

8 (Plaintiff's Exhibit Number 44, Bank of
9 America records -- BBB Management Group, is admitted
10 into evidence.)

11 MR. BERKOWITZ: I believe the next one, Your
12 Honor, is 49.

13 MR. HIPPLE: What happened to 45?

14 MR. BERKOWITZ: We admitted that. Oh, I'm
15 sorry. I'm -- I --

16 THE COURT: No, no. You skipped. Yes.

17 MR. BERKOWITZ: -- I don't. What is 45? If I
18 could --

19 THE COURT: 45 is the bank -- bank records of
20 Complete Group, Bank of America.

21 MR. BERKOWITZ: Yes, we looked at 45. Mr.
22 Hipple looked at 45. It's a bank statement from --

23 THE COURT: Any objection?

24 MR. HIPPLE: No.

25 THE COURT: All right. 45 is admitted.

1 (Plaintiff's Exhibit Number 45, Bank of
2 America records for Complete Group, is admitted into
3 evidence.)

4 MR. BERKOWITZ: 46 was the Merchant -- and you
5 said that was out.

6 MR. HIPPLE: Your Honor, again, I --

7 MR. BERKOWITZ: I'm just making sure I cover
8 all these. You said that was not in.

THE COURT: Well, we didn't get to 46, but --

10 MR. HIPPLE: I object to it because the
11 document --

12 THE COURT: -- right, 36 and 43 we talked
13 about. No, excuse me, 36 and 42 I wouldn't allow you,
14 and you heard my reasoning, and you have an exception to
15 that. 47, my -- the same reasoning would apply. I
16 don't think this has been identified and --

19 THE COURT: Right. So 47 -- you're not moving
20 in 47?

21 MR. BERKOWITZ: I'm not going to move that in.

THE COURT: All right. Okay.

23 MR. BERKOWITZ: I'm not moving 48. 49.

24 MR. HIPPLE: I don't know whether there's a --
25 my 47 is the paperwork handwritten from me in my

1 document, this document is. Are you taking that out?

2 MR. BERKOWITZ: Oh, wait, hang on, let me look
3 at 47 before I speak too quickly. Oh, yes, 47, Your
4 Honor, I'd like 47 to be in. That's the document that
5 Mr. Hipple identified, it's his writing.

6 THE COURT: Right.

7 MR. BERKOWITZ: With the EIN number that
8 appears on the document you're not allowing it?

9 THE COURT: Right.

10 MR. BERKOWITZ: It shows, and I think he
11 testified he's the only one that had that number.

12 MR. HIPPLE: That's not correct. I never
13 testified to that.

14 THE COURT: Right. All right. Do you have
15 any objection to 47?

16 MR. HIPPLE: No, it's handwriting on it.

17 THE COURT: All right. 47 is in.

18 MR. HIPPLE: It's my handwriting.

19 THE COURT: Right.

20 (Plaintiff's Exhibit Number 47, Merchant
21 service notes - Clement Hipple, is admitted into
22 evidence.)

23 MR. BERKOWITZ: And now we're at 49. That is
24 the check that --

25 MR. HIPPLE: How did we get --

1 MR. BERKOWITZ: -- Mr. Hipple testified that
2 he backdated and stamped.

3 THE COURT: He's not admitting -- he's not
4 moving 48. That's your expert report. You can do that
5 in your own case in chief, Mr. Hipple.

6 MR. HIPPLE: What do you mean, as far as
7 admittment?

8 THE COURT: Yes. He's not going to admit it
9 in his case, your expert's report.

10 MR. HIPPLE: All right. Let me -- let me do
11 this.

12 THE COURT: So he's not moving 48. Now, we're
13 up to 49.

14 MR. HIPPLE: He doesn't want to put anything
15 in for me, is that what you're saying?

16 THE COURT: Well, you're going to have that
17 opportunity.

18 MR. HIPPLE: Okay. 49. Okay.

19 THE COURT: You're going to have that
20 opportunity. He's -- it's not his job to move into your
21 evidence --

22 MR. HIPPLE: Okay.

23 THE COURT: -- your documents. Okay. 49, any
24 objection?

25 MR. HIPPLE: I have objections, but it is in

1 my handwriting, Your Honor.

2 THE COURT: All right. So I'll overrule the
3 objection and that will be admitted.

4 (Plaintiff's Exhibit Number 49, First National
5 Bank check number 0872, is admitted into evidence.)

6 MR. BERKOWITZ: I'm not moving for 50.

7 MR. HIPPLE: Okay. So 50 you're not moving to
8 put in?

9 MR. BERKOWITZ: Yes. 51 --

10 MR. HIPPLE: Hold on. 51?

11 MR. BERKOWITZ: 51, 52, 53, 54, 55 are all the
12 public records of the Complete Group litigation against
13 Steel Seal Pro.

14 THE COURT: 51 through 55?

15 MR. HIPPLE: Take out.

16 THE COURT: Okay. They're admitted.

17 MR. HIPPLE: Oh, admitted or taken out?

18 THE COURT: Admitted. He's moving into
19 evidence those documents --

20 MR. HIPPLE: Okay. Hold on.

21 THE COURT: -- but they're documents that have
22 been filed with the Court of Common Pleas of Bucks
23 County, no dispute. They're public records. They're
24 going to be admitted.

25 (Plaintiff's Exhibit Numbers 51 through 55,

1 Complete Group litigation documents, are admitted into
2 evidence.)

3 MR. HIPPLE: One moment. Your Honor, the
4 document 50 --

5 THE COURT: Right.

6 MR. HIPPLE: Okay. That's not -- that has
7 something to do with --

THE COURT: 50 he's not moving into evidence.

9 MR. HIPPLE: Oh, he's not moving.

10 THE COURT: He's withdrawing 50.

For more information about the study, please contact Dr. Michael J. Koenig at (314) 747-2146 or via email at koenig@dfci.harvard.edu.

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litigation documents. Okay. 50 -- we're up to 56.

10 AM - DENTONVILLE TUES. 30 JULY 1960 going to above.

THE COURT: SO IS WITHDRAWN.

MR. BERKOWITZ: Subject to the asc in later.

THE COURT. Right, right.

22 MR. BERKOWITZ: Number 57, the patches, the
23 SCIX patents, and I would point out that they're Exhibit
24 D-20, 21 and 22 of defendants' exhibits.

25 MR. HIPPLE: No objection to the patents.

1 THE COURT: Admitted. Okay.

2 (Plaintiff's Exhibit Number 57, SCIX patents,
3 is admitted into evidence.)

4 THE COURT: I don't remember this 58 at all
5 being --

6 MR. BERKOWITZ: I don't remember 58.

7 MR. HIPPLE: It's not really necessary.

8 MR. BERKOWITZ: Yes, I don't recall 59.

9 THE COURT: So they're withdrawn for now?

10 MR. BERKOWITZ: Nor 60. Yes.

11 THE COURT: For now, okay. 58 through 60,
12 you're --

13 MR. HIPPLE: 60 is the Merchant statements --

14 MR. BERKOWITZ: Now, I'm going to move to
15 admit the American Express bills --

16 MR. HIPPLE: Okay. Hold on -- hold on a
17 minute.

18 MR. BERKOWITZ: -- Number 61 through 110.

19 MR. HIPPLE: Come on, we have till 1:00.

20 Okay. Give me one moment, please, because I do want all
21 the American Express bills in, but I want to make sure
22 of something. They're binder three, right? Volume III?

23 MR. BERKOWITZ: Yes, I think it's binder
24 three.

25 MR. HIPPLE: Okay. Well, if -- 61, what do

1 you want to do with that?

2 MR. BERKOWITZ: 61 through 110, all of the
3 American Express bills, Your Honor.

4 THE COURT: Mr. Hipple said he didn't -- he
5 wants them in also, right? You don't object to that?

6 MR. HIPPLE: No, I want them in.

7 THE COURT: You want them in. All right.
8 They're admitted then.

9 MR. HIPPLE: Because I've got to deal with
10 them myself. Okay.

11 THE COURT: Right. They're admitted.

12 (Plaintiff's Exhibit Numbers 61 through 110,
13 American Express bills, are admitted into evidence.)

14 THE COURT: What about 111?

15 MR. BERKOWITZ: 111, 112 --

16 MR. HIPPLE: Hold on, hold on. Okay.

17 MR. BERKOWITZ: I believe 111 through 119 were
18 all used, Your Honor.

19 MR. HIPPLE: Okay. These are the checks,
20 Brian Hipple to -- they're Brian. Okay. Do we want to
21 allow this Steel Seal -- SCIX stuff in or -- I really
22 object to it. It has no bearing against me, Clement
23 Hipple.

24 THE COURT: All right. If that's your
25 objection, I overrule the objection. So 111 through

1 125 --

2 MR. HIPPLE: Oh, is that what he's saying, 111
3 through 125?

4 MR. BERKOWITZ: Not 120, Your Honor.

5 THE COURT: 120 is out?

6 MR. BERKOWITZ: 120 is out. That was 278
7 Paine Street. I asked Ms. Moreno if she recognized that
8 address and she didn't.

9 THE COURT: Okay.

10 MR. HIPPLE: But -- just, please.

11 THE COURT: All right. Let's do it -- let's
12 do it one at a time.

13 MR. HIPPLE: Okay.

14 THE COURT: 111, Brian Hipple, no problem?

15 MR. HIPPLE: Well, no, I did object -- object
16 to it.

17 THE COURT: All right. That's admitted. I
18 overruled your objection.

19 MR. HIPPLE: Okay.

20 (Plaintiff's Exhibit Number 111, Wachovia Bank
21 checks - Brian Hipple, is admitted into evidence.)

22 THE COURT: 112?

23 MR. HIPPLE: Same thing, objection because it
24 has nothing to do with me.

25 THE COURT: All right. Admitted.

1 MR. HIPPLE: Okay.

2 (Plaintiff's Exhibit Number 112, Wachovia Bank
3 checks - Melissa Moreno, is admitted into evidence.)

4 THE COURT: Clement Hipple, 113.

5 MR. HIPPLE: Again, A&C Industrial
6 Maintenance, that one I don't have objection --
7 objection to.

8 THE COURT: You don't have an objection?

9 MR. HIPPLE: No.

10 THE COURT: All right. That's admitted.

11 MR. HIPPLE: All right.

12 (Plaintiff's Exhibit Number 113, Wachovia Bank
13 checks - Clement Hipple, is admitted into evidence.)

14 THE COURT: 114, Teresa Hipple.

15 MR. HIPPLE: No objection.

16 THE COURT: Admitted.

17 (Plaintiff's Exhibit Number 114, Wachovia Bank
18 checks - Teresa Hipple, is admitted into evidence.)

19 THE COURT: Sovereign Bank.

20 MR. HIPPLE: I have objection. It has nothing
21 to do with me in this case, I'm not --

22 THE COURT: What was the Sovereign --

23 MR. BERKOWITZ: Your Honor --

24 THE COURT: Oh, that -- they're the payments
25 -- payments for the mortgage.

1 MR. BERKOWITZ: Correct.

2 THE COURT: Admitted.

3 (Plaintiff's Exhibit Number 115, Wachovia Bank
4 checks - Sovereign Bank, is admitted into evidence.)

5 THE COURT: 116, Quaint Oak Bank.

6 MR. BERKOWITZ: Same thing, second mortgage.

7 MR. HIPPLE: Same --

8 THE COURT: Do you --

9 MR. HIPPLE: I disagree.

10 THE COURT: All right.

11 MR. HIPPLE: I'm going to have to --

12 THE COURT: I overrule the objection. It's
13 admitted.

14 (Plaintiff's Exhibit Number 116, Wachovia Bank
15 checks - Quaint Oak Bank, is admitted into evidence.)

16 THE COURT: 117, Brian Hipple taxes.

17 MR. HIPPLE: Same.

18 THE COURT: All right. It's admitted.

19 MR. HIPPLE: Object.

20 THE COURT: Overrule the objection.

21 (Plaintiff's Exhibit Number 117, Wachovia Bank
22 checks - Brian Hipple taxes, is admitted into evidence.)

23 THE COURT: 118, Martin Leasing.

24 MR. HIPPLE: I object.

25 THE COURT: Overrule the objection. That's

1 admitted.

2 (Plaintiff's Exhibit Number 118, Wachovia Bank
3 checks - Martin Leasing, is admitted into evidence.)

4 THE COURT: 119, Honda Leasing. Do you object
5 to that?

6 MR. HIPPLE: I object, yeah.

7 THE COURT: I overrule. That's admitted.

8 (Plaintiff's Exhibit Number 119, Wachovia Bank
9 checks - Honda Leasing, is admitted into evidence.)

10 MR. BERKOWITZ: 120 is not offered.

11 THE COURT: Right. Now we get to the Harriman
12 Law Firm.

13 MR. BERKOWITZ: 121, the Harriman Law Firm --

14 MR. HIPPLE: Hold on, hold on.

15 MR. BERKOWITZ: -- the Wachovia checks, we saw
16 those.

17 MR. HIPPLE: Wait a second. 120 --

18 MR. BERKOWITZ: Is not offered.

19 MR. HIPPLE: -- is not admitted, right?

20 THE COURT: So now we're up to 121. Who is
21 the Harriman Law Firm again?

22 MR. BERKOWITZ: That was --

23 MR. HIPPLE: That was our divorce.

24 THE COURT: Okay.

25 MR. BERKOWITZ: Right.

1 MR. HIPPLE: That was in Arizona.

2 MR. BERKOWITZ: And those were bills paid by
3 SCIX.

4 MR. HIPPLE: That's correct.

5 THE COURT: Any objection?

6 MR. HIPPLE: For what?

7 THE COURT: To the Harriman Law Firm.

8 MR. HIPPLE: Is 121?

9 THE COURT: Checks.

10 MR. HIPPLE: No, I have no objection to them.

11 THE COURT: Admitted.

12 (Plaintiff's Exhibit Number 121, Wachovia Bank
13 checks - Harriman Law Firm, is admitted into evidence.)

14 THE COURT: 122 is the Brian Hipple credit
15 card --

16 MR. BERKOWITZ: -- credit card payments. We
17 did that with Ms. Moreno.

18 MR. HIPPLE: Now, this is something that I --
19 I have objection to, because, again, this is a credit
20 card. This could have been done, you know, anything.

21 THE COURT: I'll admit that. I'll overrule
22 the objection. 122 is admitted.

23 MR. HIPPLE: I don't know what you need it
24 for, but -- okay.

25 (Plaintiff's Exhibit Number 122, Wachovia Bank

1 checks - Brian Hipple credit card payments, is admitted
2 into evidence.)

3 MR. BERKOWITZ: 123, those were the --

4 MR. HIPPLE: But there's no supporting
5 document, Your Honor, to that -- say where the charges
6 or what the charges were for. That's -- I mean, you
7 know, it's --

8 THE COURT: I understand your objection, and
9 I'm overruling your objection. 123 is admitted.

10 (Plaintiff's Exhibit Number 123, Wachovia Bank
11 checks - Moreno children payments, is admitted into
12 evidence.)

13 MR. HIPPLE: All right.

14 THE COURT: 124.

15 MR. BERKOWITZ: 124, those were -- we admit
16 that those were business expenses and we didn't offer
17 them, so I'm not going to move for that.

18 THE COURT: All right. 124 is not being
19 admitted at this time. Do you understand that, Mr.
20 Hipple?

21 MR. HIPPLE: I want that one in.

22 THE COURT: You want that in?

23 MR. HIPPLE: Yes.

24 THE COURT: Well, you'll have to do it in your
25 own case.

1 MR. HIPPLE: Oh, come on.

2 THE COURT: Unless you agree to it now. Do
3 you want them in?

4 MR. HIPPLE: Okay. There it goes.

5 MR. BERKOWITZ: No, I didn't move them.

6 THE COURT: No. Okay. 125 --

7 MR. HIPPLE: You don't want anything that's
8 good for me, right? He takes out.

9 THE COURT: All right.

10 MR. BERKOWITZ: That's not my job.

11 THE COURT: Yes, 125.

12 MR. BERKOWITZ: Again, I don't think I offered
13 those, Your Honor.

14 THE COURT: All right. That's with --

15 MR. HIPPLE: Okay. 125?

16 THE COURT: -- they're withdrawn.

17 MR. HIPPLE: This goes back all the way to
18 SCIX bills that were paid by Verizon Wireless and all.

19 THE COURT: Well, he's not admitting them.

20 He's withdrawing 125. 126.

21 MR. HIPPLE: Hold on, hold on a minute.

22 MR. BERKOWITZ: I don't think I admitted 126.
23 I think that's just a record of the \$40,000 check --

24 MR. HIPPLE: So I've got to put these in mine.

25 MR. BERKOWITZ: -- being deposited.

1 THE COURT: All right. 126 is withdrawn.

2 MR. HIPPLE: Hold on.

3 THE COURT: Did we talk about the Hipple tax
4 returns?

5 MR. BERKOWITZ: No, we did not.

6 THE COURT: No.

7 MR. BERKOWITZ: I did not move to admit those.

8 THE COURT: All right. 127 and 128 are
9 withdrawn.

10 MR. BERKOWITZ: 129 is also withdrawn.

11 MR. HIPPLE: 127 --

12 THE COURT: Withdrawn. 130.

13 MR. HIPPLE: Hold on, hold on, hold on. Can't
14 go as quick as you. Okay. 129 is the accountant.

15 THE COURT: That's withdrawn.

16 MR. HIPPLE: You're admitting that?

17 THE COURT: No, it's withdrawn. That's why
18 I'm going fast. These are withdrawn, so there's no
19 issue. He's not seeking to admit them.

20 MR. HIPPLE: 130?

21 THE COURT: So we're up to 130.

22 MR. BERKOWITZ: 130 is the "physical assets I
23 have taken" document.

24 THE COURT: Okay. That's --

25 MR. HIPPLE: Oh, I object on the grounds that

1 there's quite a few copies of physical assets.

2 THE COURT: All right.

3 MR. BERKOWITZ: That's --

4 THE COURT: I understand your objection.

5 That's overruled. 130 is admitted. Okay.

6 (Plaintiff's Exhibit Number 130, "Physical
7 assets I have taken" document, is admitted into
8 evidence.)

9 MR. BERKOWITZ: If I could look at just 131, I
10 want to see if that's one I used.

11 MR. HIPPLE: I definitely would object to
12 that. There's no basis, Your Honor, okay, there's --
13 there's no proof of these numbers, and there's no basis
14 for them.

15 THE COURT: Let me look at it, okay?

16 MR. BERKOWITZ: Where's my 131?

17 MR. HIPPLE: Yeah, well, we -- we cleared that
18 up with the U.K. the other day, as far as the --

19 THE COURT: Oh, this is what you put on the
20 chart, right?

21 MR. HIPPLE: Yeah, that's talking about the
22 U.K., that's what this is.

23 THE COURT: Right.

24 MR. HIPPLE: I totally disagree with it, and I
25 would like it taken from the record.

1 MR. BERKOWITZ: Your Honor, if I might,
2 actually, I would ask that we admit this as --

3 THE COURT: Do you want to substitute --

4 MR. BERKOWITZ: -- 131 --

5 THE COURT: -- substitute that one?

6 MR. BERKOWITZ: Yes.

7 THE COURT: Yes.

8 MR. HIPPLE: I object to that, too, Your
9 Honor, because the expert witness, the Colonial Chemical
10 guy testified that the U.K. product was there, okay. On
11 the inventory, it shows the U.K. product, okay, and he's
12 using numbers for -- strictly for Steel Seal product.

13 THE COURT: All right. Well, let me -- okay.
14 I overrule the objection. 131 is admitted. That goes
15 -- your arguments go to the weight of it or whether I
16 should accept it.

17 (Plaintiff's Exhibit Number 131, chart of
18 revenue for sale of inventory, is admitted into
19 evidence.)

20 MR. HIPPLE: Okay. So --

21 THE COURT: By admitting these exhibits, I'm
22 not saying I believe, you know, everything's true about
23 it.

24 MR. HIPPLE: Okay. So --

25 THE COURT: I'm just -- he's allowed to

1 present them and for me to consider it.

2 MR. HIPPLE: -- so what are we admitting this
3 document, 131?

4 THE COURT: Well, I'm going to admit that
5 chart, not the document -- not the --

6 MR. HIPPLE: So 131 comes out?

7 THE COURT: Yes, but we're going to substitute
8 it for this chart. This is going to be the new 131.
9 Because this is the -- the expert's testimony is
10 reflected on that chart. That's what Mr. Berkowitz did,
11 he --

12 MR. HIPPLE: So I take this part out, right?

13 THE COURT: You take that part out, but that's
14 the new one that's in.

15 MR. BERKOWITZ: I believe Mr. Hipple needs
16 this also.

17 MR. HIPPLE: Hold on, just let me -- just let
18 me make one note. Paper on wall or whatever.

19 THE COURT: Right. We'll see if we can
20 somehow get a copy of that for you.

21 MR. HIPPLE: Yeah, spell it.

22 MR. BERKOWITZ: My writing's not that good. I
23 don't want to preserve it for posterity.

24 MR. HIPPLE: That's good enough, yes. Got it.
25 Got it.

1 THE COURT: Okay. So --

2 MR. HIPPLE: 132.

3 MR. BERKOWITZ: 132, Your Honor --

4 MR. HIPPLE: Hold on.

5 MR. BERKOWITZ: -- was the chart that we used
6 with Ms. Concepcion to establish that the amount due on
7 the notes as of the different dates --

8 MR. HIPPLE: You know, hold -- hold on -- hold
9 on one minute, Your Honor, okay? I'm looking at this,
10 and no where on this -- hold on, let me just see
11 something. Give me just one second. This document is
12 incorrect, Your Honor, okay? And this is why I'm
13 objecting, okay?

14 During the last time periods of the payments
15 that she received, okay, in 2010 and '11, they were --
16 there were some payments up for \$6,000 and it's not
17 being demonstrated on this document.

18 THE COURT: All right. Well, I'm -- I
19 understand your point. I'm not -- it doesn't really
20 affect the admissibility of it. I'm going to allow it
21 to be admitted into evidence, but you can bring it out
22 later.

23 MR. HIPPLE: Okay.

24 THE COURT: You can -- you can show that this
25 is incorrect.

1 MR. HIPPLE: But he had the document -- he had
2 the document that showed that.

3 THE COURT: All right. Well, you can bring it
4 out.

5 MR. BERKOWITZ: Your Honor, if you -- if you
6 recall, we went some checks and in some months there
7 were two payments, so I had to add -- this goes by month
8 -- so I had to add the checks together. So when you add
9 up something that doesn't correspond with the check,
10 it'll correspond with a multiple check number.

11 THE COURT: All right.

12 MR. BERKOWITZ: That was, again, a
13 mechanical --

14 THE COURT: All right. Well, you can bring
15 out whatever -- whatever deficiencies or faults you find
16 in this 132, you can bring that out, but I'm going to
17 admit it at this point.

18 MR. HIPPLE: Okay.

19 (Plaintiff's Exhibit Number 132, Teresa Hipple
20 loan, interest, payments, balance due, is admitted into
21 evidence.)

22 THE COURT: Go ahead, Mr. Berkowitz.

23 MR. BERKOWITZ: 135 is the next one.

24 MR. HIPPLE: No, I have 133.

25 MR. BERKOWITZ: I -- Mr. Hipple, I don't think

1 I'm going to offer the other ones. Okay.

2 THE COURT: 133 and 134 are out?

3 MR. BERKOWITZ: Yes. I didn't -- I didn't use
4 those.

5 THE COURT: Okay.

6 MR. BERKOWITZ: I used 135, Your Honor.

7 MR. HIPPLE: Oh, they're mine in there. 135
8 he's looking at? Okay. This is me. This is where I
9 owe you money. I object to it, Your Honor.

10 THE COURT: On what ground?

11 MR. HIPPLE: On the grounds that there were
12 never any bases established that -- that -- it should
13 not have interest in it.

14 THE COURT: All right. I'll overrule the
15 objection. 135 is admitted.

16 (Plaintiff's Exhibit Number 135, Clement
17 Hipple's loan with Wachovia Bank, is admitted into
18 evidence.)

19 MR. HIPPLE: You're going to give me a lot of
20 work, right?

21 MR. BERKOWITZ: No. The exhibit in paper --
22 there's paper exhibits on that. We don't need to use
23 the foam boards. I just used those to demonstrate when
24 we were talking about it.

25 THE COURT: The what?

1 MR. BERKOWITZ: In the exhibits, there are
2 paper exhibits. These are just blow-ups.

3 THE COURT: Yes. This is a summary chart,
4 correct?

5 MR. BERKOWITZ: Correct.

6 THE COURT: Right.

7 MR. BERKOWITZ: I didn't intend to introduce
8 the physical blow-up board because you have a paper --

9 THE COURT: But he had access to them, right?

10 MR. BERKOWITZ: Oh, yes, they're in --

11 THE COURT: The defense had access?

12 MR. BERKOWITZ: -- they're in -- yes.

13 THE COURT: Yes.

14 MR. HIPPLE: They're in the book.

15 MR. BERKOWITZ: They've been in the exhibit
16 books --

17 THE COURT: He had a chance to review those
18 underlying documents?

19 MR. BERKOWITZ: Oh, they've been there for a
20 long time.

21 THE COURT: All right.

22 MR. HIPPLE: We've got 136 left.

23 MR. BERKOWITZ: 136 I didn't offer, I don't
24 believe. Let me -- let me just make sure.

25 MR. HIPPLE: And I don't have anything on 137

1 at all. Is there anything in there?

2 THE COURT: We're on 136. He's deciding --

3 MR. HIPPLE: Oh, yeah, I've taken that out,
4 but I don't have any -- nothing behind 137.

5 MR. BERKOWITZ: Your Honor, I did not use 136.

6 THE COURT: All right. That's withdrawn then.

7 MR. BERKOWITZ: Your Honor, 137 as I think I
8 represented to you, those are not exhibits. Those were
9 defendants' exhibits that I put in my book because I was
10 going to use them.

11 MR. HIPPLE: What?

12 MR. BERKOWITZ: 137 is Exhibit D-52. If I
13 used 138 and I don't recall whether I did or didn't,
14 that's D-50 and 51. U.K. shipment invoices is my 139.
15 I don't even know if you have it, but it's D-53 and D-
16 56, and --

17 MR. HIPPLE: Hold on. Can somebody just give
18 me one minute, okay? Because I'm --

19 THE COURT: We will, we will. Take your time.

20 MR. HIPPLE: I'm totally lost there.

21 THE COURT: Take your time. So let me just
22 stop. Are you moving in these exhibits in evidence?

23 MR. BERKOWITZ: Yes, I used them. They were
24 defendants' exhibits.

25 THE COURT: All right. So let's --

1 MR. HIPPLE: I don't remember seeing them.

2 That's what I'm --

3 THE COURT: All right. Let's -- let's go over
4 them. The first one is 137 which is -- wait a minute --
5 which is D-52. So go to your D -- go to the D book --

6 MR. HIPPLE: All right.

7 THE COURT: -- the defendant -- the black
8 books --

9 MR. HIPPLE: Okay.

10 THE COURT: -- your exhibits.

11 MR. HIPPLE: Oh, my exhibits.

12 THE COURT: Go to D-52.

13 MR. HIPPLE: Okay. D-52?

14 THE COURT: Right. So what Mr. Berkowitz is
15 asking is that exhibit, which is marked as D-52, but he
16 has marked it as his exhibit as 137, be admitted in his
17 case. Do you object to that?

18 MR. HIPPLE: No.

19 THE COURT: All right. That's admitted.

20 (Plaintiff's Exhibit Number 137 (same as
21 D-52), calculation of fair market value of inventory, is
22 admitted into evidence.)

23 THE COURT: 138 is D-50, right?

24 MR. BERKOWITZ: Let me -- let me see --

25 THE COURT: You said it was D-50?

1 MR. BERKOWITZ: Yes. D-50 and 51.

2 MR. HIPPLE: Hold on for a minute. Let me see
3 this. I got it right on here. Okay. So the -- 53 is
4 his 137?

5 THE COURT: 138 --

6 MR. HIPPLE: 138?

7 THE COURT: -- is your D-50 and 51, which is
8 -- it looks like it's from the website for Steel Seal.

9 MR. BERKOWITZ: Yes, we used those with --

10 THE COURT: Just some information about the
11 prices.

12 MR. HIPPLE: Okay. So 50 and 51 are P-37.

13 THE COURT: Right. No.

14 MR. BERKOWITZ: No, they don't have a P-37 on
15 them.

16 THE COURT: No.

17 MR. BERKOWITZ: They were defendants' exhibits
18 that I used. I just put them in my book --

19 THE COURT: Right.

20 MR. BERKOWITZ: -- so I would have access to
21 them.

22 THE COURT: And he's now marked them --

23 MR. HIPPLE: I'm lost. Okay.

24 THE COURT: Okay. Go to your 50 and 51.

25 MR. HIPPLE: I'm there, 50 and 51.

1 THE COURT: Right. He wants to introduce them
2 into evidence.

3 MR. HIPPLE: Okay.

4 THE COURT: And he has marked them as his
5 exhibit, 138.

6 MR. HIPPLE: So I just mark them both 138?

7 THE COURT: Yes, mark them 138. And do you
8 have any objection to that? They're the snapshots from
9 the website.

10 MR. HIPPLE: Okay.

11 MR. BERKOWITZ: Right. They're Exhibits D-50
12 and 51, and I think we used the defendants' exhibits.

13 MR. HIPPLE: Right. All right. Fine.

14 THE COURT: Okay. They're admitted.

15 (Plaintiff's Exhibit Number 138 (same as D-50
16 and D-51, snapshots of website for Steel Seal, is
17 admitted into evidence.)

18 MR. HIPPLE: 52 is the --

19 THE COURT: 52 is now marked as 137. I
20 already admitted that.

21 MR. HIPPLE: 137.

22 MR. BERKOWITZ: Which one?

23 MR. HIPPLE: Okay. 53.

24 THE COURT: Now, let's go to 53 --

25 MR. BERKOWITZ: No, I'm not --

1 THE COURT: Oh, you're not there?

2 MR. BERKOWITZ: -- I'm not moving -- I'm not
3 moving those.

4 THE COURT: All right. So we're stopped at
5 138. Go ahead.

6 MR. HIPPLE: Hold on. So 53 is not going in?

7 THE COURT: Now wait. Now, he --

8 MR. BERKOWITZ: I'm not moving that in.

9 THE COURT: -- he's not moving it in.

10 MR. HIPPLE: Hold on. Okay.

11 THE COURT: So we stopped at 138. We're
12 waiting to hear from Mr. Berkowitz as to what, if
13 anything else, he wants to do.

14 MR. HIPPLE: Okay.

15 MR. BERKOWITZ: D-40 we just used. That's
16 Teresa Hippel's claim against the estate of Brian
17 Hippel.

18 MR. HIPPLE: Hold on. Let me go to D-40.

19 MR. BERKOWITZ: D-40.

20 THE COURT: Right. Do you want to make that a
21 new number for you or --

22 MR. BERKOWITZ: I --

23 MR. KLEIN: It was referred to, Your Honor, as
24 D-40 during the testimony.

25 MR. BERKOWITZ: D-40, yes. It was D-40. We

1 can call it 140. I don't --

2 THE COURT: All right. We'll keep it as D --
3 we'll keep it as D-40, keep it clear. Do you have a
4 problem with D-40, Mr. Hipple?

5 MR. HIPPLE: I'm there right now, Your Honor.
6 No.

7 THE COURT: All right. That's admitted. D-40
8 is admitted in the plaintiff's case.

9 (Defendants' Exhibit Number 40, Teresa
10 Hipple's notice of claim, is admitted into evidence.)

11 MR. BERKOWITZ: Your Honor, the next were a
12 couple of loose sheets that we put in.

13 THE COURT: Right.

14 MR. BERKOWITZ: One was P-200.

15 THE COURT: Which was what?

16 MR. BERKOWITZ: And that was the trademark --

17 THE COURT: Right. This is --

18 MR. BERKOWITZ: -- registration --

19 MR. HIPPLE: Hold on, hold on. We didn't -- I
20 didn't think we went to P-200. Oh. Oh, that's the --
21 okay, that's the one he submitted --

22 THE COURT: Is that with the number 19990228?
23 Yes.

24 MR. HIPPLE: Can I get a copy of that?

25 THE COURT: Sure. P-200?

1 MR. HIPPLE: Yes.

2 THE COURT: Sue, can you make a copy? We'll
3 make a copy for you, give it to you before you leave
4 today.

5 MR. HIPPLE: Okay.

6 (Plaintiff's Exhibit Number 200, trademark
7 registration number 19990228, is admitted into
8 evidence.)

9 MR. BERKOWITZ: P-201 was Mr. Geisser's
10 identification of the -- the current website for the
11 sale of Steel Seal.

12 MR. HIPPLE: Can I get a copy of that also,
13 please?

14 THE COURT: Okay. That's admitted.

15 (Plaintiff's Exhibit Number 201, Mr. Geisser's
16 identification of the website, is admitted into
17 evidence.)

18 MR. BERKOWITZ: And P-202 was the inventory
19 that came out of Melissa Moreno's deposition transcript.

20 MR. HIPPLE: I know you want to admit that,
21 but I -- yeah, I'll deal with the --

22 THE COURT: He wants to admit it. I don't --

23 MR. HIPPLE: I object to it because it's
24 incorrect.

25 THE COURT: All right.

1 MR. HIPPLE: The information on it is
2 incorrect.

3 THE COURT: All right. It's not that I want
4 to admit anything. I'm just a neutral --

5 MR. HIPPLE: Right.

6 THE COURT: -- person here, just a gatekeeper.
7 All right. I'm going to overrule the objection. I'll
8 admit 202.

9 (Plaintiff's Exhibit Number 202, inventory
10 from Melissa Moreno's deposition transcript, is admitted
11 into evidence.)

12 MR. HIPPLE: And I would also need a copy,
13 too.

14 THE COURT: Yes. We'll get you a copy.

15 MR. HIPPLE: Five minutes, Your Honor.

16 MR. BERKOWITZ: Just I want to make sure, D-52
17 is -- I called it 137 --

18 MR. HIPPLE: B-52?

19 MR. BERKOWITZ: -- but it was D-52.

20 MR. HIPPLE: D-52.

21 MR. BERKOWITZ: Yes, Defense 52. I just want
22 to make sure -- yeah, I called it 137.

23 THE COURT: I already admitted that.

24 MR. HIPPLE: Yeah, we got that, 137.

25 THE COURT: That's admitted.

1 MR. BERKOWITZ: Okay. Anything else?

2 Your Honor, if I could just move all of those
3 into evidence, we've done that, and just reserve -- just
4 till I get back tomorrow so I can check and see if
5 there's any others that I might have forgotten, although
6 I think we've been pretty thorough in this.

7 MR. HIPPLE: I object.

8 THE COURT: Well, let's see what happens. He
9 has -- he always can ask to reopen it, and I have the
10 discretion to reopen it. So we'll see -- it may be a
11 moot point, so we don't need to rule on this yet.

12 MR. HIPPLE: I just want on the record --

13 THE COURT: I understand, but I'm not -- I'm
14 not ruling on it. Let's see what he asks -- he may not
15 ask for anything. Okay. He did go through his entire
16 list.

17 MR. HIPPLE: Okay.

18 THE COURT: I'm pretty sure we got everything,
19 but he just wants to make sure.

20 MR. HIPPLE: All right. I just --

21 THE COURT: And I'll -- you know, I want to
22 give him an opportunity at least if he wishes to try to
23 say he forgot something, I'm going to listen to him,
24 okay?

25 MR. HIPPLE: Okay. So basically now tomorrow

1 is my -- my side, right?

2 THE COURT: Right.

3 MR. HIPPLE: Okay. And then after that
4 myself.

5 THE COURT: Tomorrow it's your opportunity to
6 present whoever you want, yourself, any other witnesses
7 you want.

8 MR. HIPPLE: I'd like -- I have two witnesses
9 I have -- I have for tomorrow and then I'm going to go
10 on the stand, and I'm going to be on Friday, Your Honor.

11 THE COURT: That's fine, whatever you have.
12 Now, how about if we meet tomorrow at 9:00 till we
13 started? Everybody okay?

14 MR. HIPPLE: That would be fine.

15 THE COURT: 9:00. And so you have three
16 witnesses so far. That's what you anticipate --

17 MR. HIPPLE: Yes.

18 THE COURT: -- including yourself. Okay.
19 Well, let's see how much time we get tomorrow. What
20 time is -- when is your vacation? Let's talk about
21 that.

22 MR. BERKOWITZ: Well, Saturday.

23 THE COURT: Okay.

24 MR. BERKOWITZ: I'm --

25 THE COURT: All right. Well, I don't want

1 anybody to miss their vacation.

2 MR. HIPPLE: Oh, I have to go on vacation
3 tomorrow, Your Honor.

4 THE COURT: Well, you knew that we had this
5 trial.

6 MR. HIPPLE: I'm kidding, Your Honor.

7 THE COURT: All right. So -- okay. Let's see
8 how -- let's cross that bridge when we get to it. I
9 don't want to disturb anybody's vacation. If we have to
10 continue at another day --

11 MR. HIPPLE: No, I will be finished by --

12 THE COURT: -- we'll continue at another day.

13 MR. HIPPLE: -- I'll be finished by Friday.

14 THE COURT: Okay.

15 MR. HIPPLE: Are you going on vacation over
16 the weekend or are you going -- or more than the
17 weekend?

18 THE COURT: Well, I'm not working on Saturday,
19 so that's kind of a moot point. He's going -- he won't
20 be here on Monday because he's on vacation, right?
21 Okay.

22 MR. HIPPLE: You won't be here Monday?

23 THE COURT: I'll be here Monday, but
24 unfortunately, I'll be dealing with other cases.

25 MR. HIPPLE: I thought we had Monday as our --

1 our day -- our last day.

2 THE COURT: No. We only anticipated a week.

3 I'm on -- I'm on what's called criminal duty on Monday,
4 so I have criminal cases, but let's see what happens,
5 okay?

6 MR. HIPPLE: All right.

7 THE COURT: Let's see where we are. All
8 right.

9 MR. HIPPLE: Okeydoke.

10 THE COURT: Okay. Thanks. I'll see you
11 tomorrow, 9:00. Thank you.

12 (Proceedings concluded at 12:54 p.m.)

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I N D E X

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* * *

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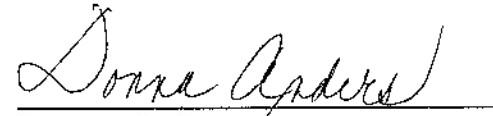
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6 CERTIFICATION
7

8 I, Donna Anders, do hereby certify that the
9 foregoing is a true and correct transcript from the
10 electronic sound recordings of the proceedings in the
11 above-captioned matter.

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14 10/4/15
15 Date

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Donna Anders